

Massachusetts Water Pollution Abatement Trust
Office of the Treasurer and Receiver-General
Executive Office for Administration and Finance
Department of Environmental Protection



Application for Financial Assistance
Clean Water State Revolving Fund
Planning Stage

March 2006

Department of Environmental Protection
Bureau of Resource Protection
One Winter Street
Boston, Massachusetts 02108-4747

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Introduction

Chapter 275 of the Acts of 1989, as amended by Chapter 203 of the Acts of 1992, (the "Act") established the state revolving fund program in Massachusetts contemplated by Title VI of the Clean Water Act (the "CWA") and created the Massachusetts Water Pollution Abatement Trust (the "Trust") to implement the program. The Trust is authorized under the Act to make loans to local governmental units to finance the costs of eligible water pollution abatement projects. In order to receive a loan, a potential borrower must file an Application for Financial Assistance with the Department of Environmental Protection ("Mass DEP"), Bureau of Resource Protection ("BRP"). Once Mass DEP has approved the Application, it will forward a Project Approval Certificate to the Trust. The Trust will then be authorized to fund the loan, subject to the availability of funds and subject to review by Mass DEP and the Trust of financial information contained in the Application and development of terms and conditions for the loan.

Eligible projects will be determined in accordance with the priority lists established annually by Mass DEP. ***A project must appear on the current Mass DEP Intended Use Plan project listing to be eligible to apply for financial assistance.*** Applications for loans will be reviewed in accordance with the provisions of 310 CMR 44.00 (**Appendix A**).

This package includes the Application Forms, Instructions and other information relative to supporting documentation required to be submitted as part of the Application. Do not submit the instructions with the Application.

Applicants should note that neither the filing of an Application nor issuance by Mass DEP of a Project Approval Certificate will constitute a binding commitment of the Trust or Mass DEP to make a loan. Binding commitments, subject to the availability of funds, will be issued by the Trust after review of the financial information contained in the Application.

PLEASE NOTE THAT THIS APPLICATION PACKAGE IS SUBJECT TO REVISION. IT DOES, HOWEVER, REFLECT THE BEST CURRENT INFORMATION ANTICIPATED TO BE NEEDED BY Mass DEP AND THE TRUST TO REVIEW AND APPROVE YOUR PROJECT. PLEASE CONTACT Mass DEP PRIOR TO SUBMISSION OF THIS APPLICATION.

General Information

Please complete all parts of this application; incomplete or incorrect applications may delay review.

1. *Use of This Application* - This is an application form for financial assistance from the Massachusetts Water Pollution Abatement Trust's State Revolving Fund (SRF) Program. The Clean Water SRF Program is a financing assistance program for the planning, design, and construction of water pollution abatement projects. As set forth in the Calendar Year 2006 Project Priority List/Intended Use Plan, funding for design projects has been eliminated for Calendar Year 2006. This form is to request subsidized loan assistance and/or to request refinancing of debt obligations incurred by local governmental units in the planning of water pollution abatement projects through preparation of Comprehensive Wastewater Management Plans or Project Evaluation Reports. Local governmental units interested in receiving a SRF loan must complete and return this application.
2. *General Eligibility* - A project must meet the eligibility criteria of the SRF program in order to be eligible for financial assistance under the SRF Program. (See 310 CMR 44.04 and 44.07.)
3. *The Application Consists of Three Parts and a Checklist:*

Part I - General information about the applicant and the project, and an applicant certification statement.

Part II - Project specific data with supporting documentation.

Part III - Supplemental Requirements.

Loan Application Checklist - The checklist must be completed and submitted with the application. Mass DEP recommends that the application be assembled in a 3-ring binder, with inserts for each of the applicable items.

4. Please refer to the instructions for each section to determine which types of additional information are required for submission with the application. The Mass DEP may require other supporting information or documentation in addition to that requested in this application.
5. *Submission* – Please submit an original signed application (**including the loan application checklist**) to:

Steven McCurdy
Division of Municipal Services
Massachusetts Department of Environmental Protection
One Winter Street, 5th Floor
Boston, Massachusetts 02108-4747
(617) 292-5779

Instructions for Part I - Applicant Information Section

1. Provide the legal name of the eligible borrower (local governmental unit) which will undertake the proposed project. If the applicant is not a municipality provide information regarding the entity which will be responsible for executing contracts and documents.

List the applicant's Department of Revenue (DOR) identification Number (this is the I.D. number used on all state revenue aid programs).

List the applicant's Federal Employer Identification Number (FEIN).

Authorized Representative - (*Checklist Items 2 and 3*) List the name, title, complete address, and telephone and fax numbers of the authorized representative. The application must contain a resolution or authorization designating by title the official (Mayor, City or Town Manager, Chairman of the Board of Water Commissioners, Board of Selectmen, etc.) to act as the representative of the applicant to sign for, accept, and take whatever action is necessary relative to the project. In the city form of government, the City Council will generally name the authorized representative. If the community is governed by Town Meeting, then the Town Meeting action will name the appropriate group, such as the Board of Selectmen or Board of Public Works. The appropriate governing body will then name the authorized representative. If the authority to file statement names an office, then a certified statement is required specifically identifying the individual currently holding that office. For wastewater districts, provide the requisite authorization of the governing board.

The Authority to File statement must be certified. This is accomplished by either a certification at the bottom of the authority to file or by submitting a separate certifying statement. Suggested forms for Authority to File and Certifying Authority to File are included in **Appendix B**.

In the event the authorized official is replaced while the project is still active, a certified statement naming the new incumbent and the effective date of appointment must be submitted.

On occasion an authorized representative may desire to delegate to another person the authority to also act on their behalf in processing paperwork during the implementation of the project. This is accomplished by having the authorized representative submitting a letter advising of this delegation.

2. If an individual other than the Authorized Representative will serve as the Applicant's contact person for day-to-day management of the project, provide that person's name, address, and telephone and fax numbers.
3. Provide the name and Federal Employer Identification Number (FEIN) of the engineering firm, contact person, address, and telephone and fax numbers.
4. List the project's ID number and name from the current CW SRF Priority List/Intended Use Plan, and provide a brief description of the nature and scope of the planning project to be undertaken.
5. If the project is serving more than one municipality, list all municipalities involved and any NPDES permit numbers, as applicable.
6. Indicate the amount of financial assistance you are requesting.
7. **Local Appropriation** - (*Checklist Item 4*) The applicant must demonstrate that sufficient funds are available to cover the total (both eligible and ineligible) project costs. This is accomplished by means of Town Meeting, City Council, Wastewater District, or other appropriate action. Forms are included in **Appendix C** which provide suggested language depending on whether the applicant uses general obligation or revenue obligation borrowing. Local bond counsel should be consulted for exact language.

Important points to remember include:

- a. Note that the applicant can borrow from the Massachusetts Water Pollution Abatement Trust in accordance with Chapter 29C, as amended, of the General Laws.
 - b. The resolution must be certified.
 - c. It must denote who can act on behalf of the applicant to file for and accept financing.
 - d. It must specifically state what project or type of project is being authorized, such as treatment plant, pumping station, sewers, etc.
8. Check **ALL** forms of financial assistance the applicant is requesting.
 9. The application certification must be signed by the authorized representative designated in item 1. **Please review carefully the 13 conditions with which projects financed through the SRF must comply.** Failure to meet these conditions may preclude Mass DEP's approval of the project. (Note that some of these conditions (Nos. 1, 3, 5, 10, and 13) do not apply to planning stage projects.)

IMPORTANT NOTE

It is no longer necessary for the application to contain the prior three years of audited financial statements that comprised Section II in last years and the previous years applications.

Instructions for Part II - Project Section

1. **PROJECT SCHEDULE AND COST** - The application must contain a realistic schedule for starting and completing the planning project. Since the Trust will sell its bonds based on the proposed schedule, it is critical that this schedule be as accurate as possible. Please include month, day, and year. Indicate the total and eligible costs of the project. Eligibility must be consistent with the Mass DEP "Policy on Eligible Project Costs" (**Appendix H**.)
2. **CASH FLOW PROJECTIONS** – Provide a month-by-month schedule of project expenditures. This schedule should show all expenses, including previously incurred costs if Mass DEP had issued a prior approval as provided in 310 CMR 44.07. The consulting engineer should be able to provide an estimate of the project schedule and anticipated fund amounts necessary to complete the project. This information will be important to determine subsidy and bonding requirements. (Since it will be necessary to make assumptions regarding project start-up and loan award dates in order to complete this section, it may be necessary to update this information later to reflect the actual date of project initiation.)
 - A. **Prior Approval**
For projects that have received prior approval, in the "Month/Year" column list the date when the loan is anticipated to be approved. Under "Cost Incurred to Date" provide the projected incurred cost as of that date. Under "Source/Amount", indicate how the incurred costs were financed (free cash, short-term borrowing, etc.) and provide the note expiration date as applicable. Attach a copy of the Mass DEP's prior approval letter to the application.
 - B. **Proposed Project**
In the "Month/Year" column, the first date should be the one when new expenses are expected to commence. List the calculated amount of monthly disbursements for each month of the project from the commencement date. (If the project schedule exceeds the months provided, continue the table on a separate sheet.) Indicate the anticipated eligibility of the monthly disbursements in the "Total Cost" and "Eligible Cost" columns.

Instructions for Part III - Supplemental Requirements (Items Nos. 5 through 14 on Checklist)

5. **PLAN OF STUDY** – A detailed Plan of Study must be submitted with the application, outlining the scope of services for the planning work. The plan of study should be of sufficient detail to demonstrate that all the Mass DEP’s planning requirements will be met. For further guidance on this issue, contact the appropriate Mass DEP Program Managers.
6. **MEPA COMPLIANCE** - The Plan of Study must contain a work item to prepare an Environmental Notification Form (ENF). An ENF must be filed with the MEPA unit of EOEa if the project exceeds the review thresholds contained in 301 CMR 11.00. After a review period, the Secretary of EOEa will decide whether an Environmental Impact Report (EIR) is required or not. If not, then the project can proceed, subject to any conditions that MEPA may place on the project. If an EIR is required, it must be completed by the proponent and submitted to the Secretary for an additional public comment period. Once the comment period has expired, the Secretary will render a decision on the final EIR. If it is found acceptable, and once the 60-day legal challenge period expires, the project can then proceed. The application must contain documentation that the requirements of MEPA have been satisfied.
7. **MASSACHUSETTS HISTORICAL COMMISSION (Approval)** - A construction loan cannot be made until all work required by the Massachusetts Historical Commission (MHC) has been completed and approved by them in accordance with 950 CMR 71.00. For planning projects, the Plan of Study must include a work item to initiate an archaeological survey, if required.
8. **PROFESSIONAL SERVICES AGREEMENT** - The application must contain draft agreements for all professional services which clearly outline the duties and responsibilities of the applicant and its contractors. The agreement will include, but not be limited to, scope of work for the various planning tasks, cost to perform the work to be paid in accordance with the provisions of eligible contracts, provisional overhead rate, and time of completion.
9. **MODEL SUBAGREEMENT CLAUSES** - The provisions of **Appendix D** are to be made a part of all professional services agreements.
10. **SRF 90-01 COST/PRICE SUMMARY** - The request for financial assistance for professional services in excess of \$25,000 shall include a breakdown of cost and price considerations in the approved format. The following items will be included:
 1. Direct salary costs by job category.
 2. Provisional overhead rate.
 3. Other direct costs (travel, expenses, subcontracts, etc.)
 4. Profit.

The form (**Appendix E**) must be signed by two parties; first by the contractor and then by the applicant.
11. **DETAILED FEE BREAKDOWN** - All fees shall be broken out by task (shop drawings, resident services, start-up, etc.), job category (vice president, project engineer, draftsman, etc.), and cost.
12. **SUBCONTRACTS WHERE APPLICABLE** - All lower tier subcontracts in excess of \$25,000 must be submitted in draft form with the application, including an executed BRP 90-01 form, and a detailed fee breakdown.

13. MINORITY/WOMEN BUSINESS ENTERPRISE - Applicants receiving assistance must make positive efforts to use minority and women owned businesses for professional services. Such efforts should achieve a goal of 4.65% participation for minority business (MBE) and 16.03% participation for women owned business (WBE) but, at a minimum, should allow these sources the maximum feasible opportunity to compete for subagreements to be performed using state trust monies. Sample forms are provided in **Appendix F**.
14. CHAPTER 233 - COMPLIANCE STATEMENT ON MA TAXES - A statement must be signed by the consultant engineer(s) for the project that states that the engineer(s) is in compliance with Massachusetts tax laws. A sample statement is provided in **Appendix G**.

Part I

Applicant Information and Certification

(attach additional pages as necessary)

1. LOCAL GOVERNMENTAL UNIT (LGU)					
LGU Name:		Dept. of Revenue ID No.:		FEIN	
Authorized Representative:			Title:		
Street/P.O. Box:					
City:		State:		Zip:	
Telephone: ()		Fax: ()			

2. LGU CONTACT PERSON (if different from item 1)					
Name:		Title:			
Mailing Address (if different from item 1)					
Street/P.O. Box:					
City:		State:		Zip:	
Telephone: ()		Fax: ()			

3. ENGINEER OR CONSULTANT FIRM					
Firm/Agency:		FEIN			
Contact Person:					
Mailing Address					
Street/P.O. Box:					
City:		State:		Zip	
Telephone: ()		Fax: ()			

4. CWSRF PROJECT IDENTIFICATION NUMBER	
ID No. from Current Priority List:	
Project Description:	

5. MUNICIPALITIES SERVED BY TREATMENT WORKS (Name / Permit Numbers)	

6. AMOUNT OF ASSISTANCE REQUESTED
\$

7. LOCAL APPROPRIATION		Amount	Available Balance
Bonds	\$	\$	
Cash	\$	\$	
Other	\$	\$	

8. TYPE OF FINANCIAL ASSISTANCE REQUESTED		
(Check as applicable)		Loan for new project
		Refinancing of debt incurred
If refinancing, list amount of outstanding debt and maturity dates.		
Amount	Date of Issue	Maturity Date

9. CERTIFICATION
<p>In submitting this Application to the Mass DEP, the Applicant certifies that it shall comply with the following Project related conditions, and understands that the Applicant's non-compliance with one or more of these conditions may preclude the Mass DEP's issuance of a Project Approval Certificate or entry into a Project Regulatory Agreement.</p>
<p>(1) The Applicant shall obtain the Mass DEP's prior written approval to: (a) advertise any Invitation To Bid or Request for Proposals to procure contracts for the Project; and (b) award any contracts for the Project.</p>
<p>(2) The Applicant shall comply with the Affirmative Action and Minority/Women Business ("M/WBE") requirements in the Mass DEP's Regulations. The Applicant shall comply with the Civil Rights Act of 1964, 42 USC s.2000(a) et seq., as amended, and all Executive Orders and regulations promulgated thereunder. The Applicant shall sign and deliver to the Mass DEP a Nondiscrimination in Employment form. The Applicant shall ensure that any prime contracts or subcontracts for services, construction, goods or equipment for the Project contains the applicable M/WBE utilization goals: construction [MBE – 5.30%, WBE – 4.40%]; services [MBE – 4.65%, WBE – 16.03%]; goods [MBE – 7.89%, WBE – 14.82%]; and equipment [MBE – 2.48%, WBE – 7.51%]. The applicable M/WBE goals depend on the predominate character of the specific contract being procured by the Applicant, as determined by the Mass DEP. The Applicant shall ensure that all vendors submitting bids or proposals as prime contractors or subcontractors in response to Project-related procurements complete the Commonwealth of Massachusetts Vendor Information Form ("VIF"). The Applicant shall also be responsible for submitting the completed VIFs to the Mass DEP when it requests the Mass DEP's approval to award the contract.</p>
<p>(3) The Applicant shall at all times provide and maintain competent and adequate resident supervision and inspection of the Project under the direction of a licensed professional engineer. Such resident site engineer shall ensure that the implementation of the Project conforms with the approved plans and specifications, and shall certify to the Applicant and the Mass DEP at the completion of the Project that the implementation of the Project is in accordance with the Mass DEP approved final plans and specifications for the Project. The Applicant also agrees to submit an executed copy of the contract for resident site engineering services to the Mass DEP within sixty (60) days of the date of the contract award. The Applicant understands that no payments for the Project will be processed until such contract has been submitted to the Mass DEP.</p>
<p>(4) Prior to receiving final payment for the Project, the Applicant shall certify to the Mass DEP that the Project has been completed and performed in accordance with the Project Regulatory Agreement.</p>
<p>(5) The Applicant shall be solely responsible for the implementation and completion of the Project in accordance with the Mass DEP approved plans and specifications and Mass DEP permit(s) issued for the Project, and for the economical and efficient operation and administration of the Project. The Applicant's responsibilities include retaining sufficient operating personnel and conducting operational tests and other needed evaluations to ensure the economical and efficient operation and administration of the Project.</p>
<p>(6) The Applicant shall establish accounts for the Project which shall be maintained in accordance with generally accepted government accounting standards.</p>
<p>(7) The Applicant understands that if the Mass DEP issues a Project Approval Certificate for this project, such action does not constitute the Mass DEP's sanction or approval of any changes or deviation from any applicable state regulatory or permit standards, criteria, or conditions, or from the terms or schedules of state enforcement actions or orders applicable to the Project.</p>
<p>(8) The Applicant shall maintain all Project records for three years after the issuance of final payment or until any litigation, appeal, claim, or audit that is begun before the end of the three-year period is completed and resolved, whichever is longer.</p>

(9) The Applicant agrees to provide any Project information and documentation requested by the Mass DEP.	
(10) The Applicant shall obtain fee simple title or such other property interest in the Project site, including any easements and rights-of-way, necessary to ensure the undisturbed use and possession of the Project site for the purposes of implementation and operation of the Project for its estimated life.	
(11) Any proposed change in Project-related contracts which substantially modifies the Project initially proposed shall be submitted to the Mass DEP for prior approval.	
(12) The Applicant's implementation of the Project, including the procurement of related contracts, shall comply with all applicable requirements of state and local laws, ordinances, by-laws, rules and regulations.	
(13) Mass DEP representatives shall have access to Project work whenever it is in preparation or progress, and shall be provided proper facilities for such Project access and inspection. All of the Applicant's construction and other relevant contracts shall contain the above provision.	
<p>To the best of my knowledge and belief, data provided in this application is true and correct; the documentation has been duly authorized by the governing body of the applicant. Furthermore, the applicant certifies that it possesses the legal authority to apply for the loan, and to finance and construct the proposed facilities. A resolution, motion, or similar action has been duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application. The same resolution, motion, or similar action is directing and authorizing the person identified below as the authorized representative of the applicant to act in connection with the application and to provide such additional information as may be required.</p>	
Name of Representative (Type)	Title
Signature of Representative	(Date)

Project Section Information

[illegible]

**Clean Water State Revolving Fund Program
Loan Application Checklist**

PLANNING STAGE PROJECTS

Please use this checklist to confirm that all required forms and supplemental information have been included with the application, and submit the checklist with your application.

Item	Included in this package (check)	Previously submitted (date)
1. Parts I, II, and III		
2. Authority to File		
3. Certifying Authority to File		
4. Local Appropriation		
5. Plan of Study		
6. MEPA		
7. Historic Preservation		
8. Professional Services Agreements		
9. Model subagreement clauses		
10. Cost / Price Summary		
11. Detailed Fee Breakdown		
12. Subcontracts		
13. Minority / Women Business Enterprise		
14. Chapter 233 - Statement on MA Taxes		

Appendix A

310 CMR 44.00

Clean Water State Revolving Fund Regulations

310 CMR: 44.00: DEP SELECTION, APPROVAL AND REGULATION OF WATER POLLUTION ABATEMENT PROJECTS RECEIVING FINANCIAL ASSISTANCE FROM THE STATE REVOLVING FUND

Section

- 44.01: Authority and Effective Date
- 44.02: Purpose
- 44.03: Definitions
- 44.04: Eligible Projects
- 44.05: Priority System
- 44.06: Project Selection Criteria
- 44.07: Eligible Project Costs
- 44.08: Planning Requirements
- 44.09: Environmental Review and Federal Cross-Cutter Requirements
- 44.10: Affirmative Action and Minority/Women Business Enterprise Requirements
- 44.11: Project Approval and Regulation

44.01: Authority

310 CMR 44.00 has been adopted pursuant to M.G.L. c. 21, s. 27A and St. 1989, c. 275.

44.02: Purpose

310 CMR 44.00 sets forth the Department's authority and responsibilities to select, approve and regulate water pollution abatement projects receiving financial assistance under the State Revolving Fund ("SRF") Program.

The Department may issue supplemental policies, guidelines, guidance documents and/or administrative procedures to assist in the implementation and administration of 310 CMR 44.00

44.03: Definitions

For the purposes of 310 CMR 44.00 *et seq.*, the following terms shall have the meaning set forth in 310 CMR 44.00 unless the context clearly requires otherwise.

Act: St. 1989, c. 275, as amended by St. 1992, c. 203, and as may be further amended from time to time.

Clean Water Act: The Federal Water Pollution Control Act, Public Law 92-500, 33 USC s. 1251, *et seq.*, as amended.

Collection System Projects: Projects for the construction of a collection system or its related components. Collection systems generally consist of each and all of the common lateral sewers and appurtenances of publicly owned treatment works which are primarily installed to receive wastewaters from individual structures or from private property, and which include service connection "Y" fittings and service connections within the boundary of the public way or easement.

Comprehensive Septic Management Program: As authorized by St. 1996, c. 15, s.2, or by any other applicable law, a loan program to local governmental units administered within the Fund and under 310 CMR 44.00 to assist eligible homeowners to upgrade failed septic systems in compliance with 310 CMR 15.000 (Title 5) through underlying betterment agreements between the local governmental unit and such homeowners pursuant to M.G.L. c.111, s.127B½.

Comprehensive Wastewater Management Planning: Planning performed pursuant to 310 CMR 44.08(2)(a) and (3) and consistent with the Department's "Guide to Comprehensive Wastewater Management Planning".

Cost: As applied to any water pollution abatement project, any or all costs, whenever incurred, approved by the Department in accordance with M.G.L. c. 21, s. 27A, of carrying out a project including, without limiting the generality of the foregoing:

costs for planning, preparation of studies and surveys, design, construction, expansion, facilities, improvement and rehabilitation, acquisition of real property, personal property, materials, machinery or equipment, start-up costs, demolitions and relocations, reasonable reserves and working capital, interest on loans, local governmental obligations and notes in anticipation of thereof prior to and during construction of such project or prior to the date of such loan, if later, administrative, legal and financing expenses, and other expenses necessary or incidental to the aforesaid.

Department: The Department of Environmental Protection.

Federal Cross-Cutters: Federal laws and authorities that apply by their own terms to projects receiving federal financial assistance such as the federal SRF. Such federal cross-cutters include, but are not limited to, environmental laws and authorities such as the Clean Air Act, Safe Drinking Water Act, Endangered Species Act, Coastal Zone Management Act, Wild and Scenic Rivers Act and the National Historic

Preservation Act of 1966, and economic and miscellaneous authorities such as the procurement and contractor requirements associated with financial assistance programs under the Clean Water Act and Clean Air Act.

Grant Equivalency or Financial Equivalent of a Grant: The standard measure used by the Department and the Trust to determine the amount of subsidy applicable to the eligible costs of a project under the loan in accordance with M.G.L. c. 29C.

Guide to Comprehensive Wastewater Management Planning: The Department's document entitled "Guide to Comprehensive Wastewater Management Planning", as amended, which sets forth specific guidance on the required components of the comprehensive wastewater management process, including the identification of the wastewater needs/problem, the development and evaluation of alternatives, the cost effectiveness analysis, the selection of an alternative, and the public participation requirements.

Infiltration: Water other than wastewater that enters a sewer system (including sewer service connections and foundation drains) from the ground through means which include, but are not limited to, defective pipes, pipe joints connections, or manholes. Infiltration does not include, and is distinguished from, inflow.

Infiltration/Inflow Projects: Project which remove infiltration and inflow (i.e. water other than wastewater) from a sewer system, including construction associated with infiltration/inflow rehabilitation.

Infiltration/Inflow Rehabilitation: Construction associated with the rehabilitation of a sewer system to remove infiltration/inflow.

Inflow: Water other than wastewater that enters a sewer system (including sewer service connections) from sources which include but are not limited to, roof leaders, cellar drains, yard drains, area drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm waters, surface runoff, street wash waters or drainage. Inflow does not include, and is distinguished from, infiltration.

Intended Use Plan: An annual plan submitted by the Trust to EPA pursuant to s.606(c) of the Clean Water Act which identifies the intended use of the amounts available to the Fund as determined from time to time by the Trust and derived from the federal capitalization grant, state match amounts, loan repayments, investment earnings and any other moneys deposited by the Trust available to fund projects eligible for funding under Title VI of the Clean Water Act. The Intended Use Plan includes a project listing, a description of short and long term goals for the use of the funds, information on the activities to be supported, assurances for meeting certain Title VI requirements, and the criteria and method for the distribution of funds.

Intended Use Plan Project Listing: As the term is used in 310 CMR 44.00, the Intended Use Plan Project Listing means those projects identified by the Department for inclusion on the fundable portion of the calendar year priority list pursuant to 310 CMR 44.05(2).

Loan: Any form of financial assistance subject to repayment which is provided by the Trust to a local governmental unit for all or any part of the cost of a water pollution abatement project.

Loan agreement: Any agreement entered into between the Trust and a local governmental unit pertaining to a loan or local governmental obligations.

Loan commitment: A written commitment by the Trust to make a loan to a local governmental unit to finance a project approved by the Department on terms consistent with the Department's Project Approval Certificate.

Local government unit or local governmental unit: Any town, city, district, commission, agency, authority, board or other instrumentality of the commonwealth or of any of its political subdivisions, including any regional local governmental unit defined in M.G.L.c. 29C, which is responsible for the ownership or operation of a water pollution abatement project and is authorized by a bond act to finance all or any part of the cost thereof through the issue of bonds.

MEPA: The Massachusetts Environmental Policy Act, M.G.L. c 30, ss. 61 through 62H, and as may be further amended from time to time.

NEPA: The National Environmental Policy Act, 42 U.S.C. 4321 *et seq.*, and as may be further amended from time to time.

Nonpoint Source Project: Projects which implement or are consistent with the Nonpoint Source Management Plan, developed and updated by the Department pursuant to s. 319 of the Clean Water Act, which may include, but are not limited to, the repair replacement and/or upgrading of subsurface sewage disposal systems regulated under 310 CMR 15.000 (Title 5), landfill capping and closure, remediation of leaking underground storage tanks, erosion control and the control of stormwater runoff.

Policy on Eligible Project Costs: The Department's document entitled "Policy on Eligible Project Costs", as amended, which identifies the specific types of project costs determined by the Department to be generally within the eligible project categories identified in 310 CMR 44.07(1) and (2).

Project Approval Certificate: The certificate issued by the Department to the Trust approving the project and certifying those costs of the project determined by the Department to be eligible for assistance from a loan and those costs eligible for financial assistance pursuant to M.G.L. c. 29C, s.6.

Project Regulatory Agreement: An agreement between the Department and a local governmental unit, executed and delivered to the Trust on or prior to the date of a loan from the Trust to the local governmental unit to finance a project approved by the Department, which contains provisions relating to the Department's regulation and supervision of the project in accordance with 310 CMR 44.00.

State Revolving Fund ("SRF") Program: The financial assistance program for water pollution abatement projects authorized under the Act and the Clean Water Act, including the Water Pollution Abatement Revolving Loan Program established pursuant to M.G.L. c. 29C, the Department's related authority and responsibilities set forth in M.G.L. c. 21, s.27A and elsewhere in the Act, and the Water Pollution Abatement Revolving Fund established pursuant to M.G.L. c. 29, s.2L.

Title 5: Title 5 of the State Environmental Code, 310 CMR 15.000.

Trust: The Massachusetts Water Pollution Abatement Trust established by M.G.L. c. 29C.

Wastewater Treatment Project: Abatement facilities eligible for SRF assistance under the Clean Water Act providing, or being upgraded or rehabilitated to provide, secondary or more stringent wastewater treatment (or any cost effective alternatives), including conveyancing components (such as interceptors) and appurtenances related to such facilities. Wastewater treatment project does not, however, include activities and/or facilities within the definitions of an Infiltration and Inflow Project or a Collection System Project under 310 CMR 44.03.

Watershed Management Plans: Plans developed, updated and/or approved by the Department to manage the water resources of any watershed or subwatershed which implement or are consistent with the Department's Nonpoint Source Management Plan. Watershed Management Plans may include watershed related plans developed and updated by other parties which, as approved by the Department, implement or are consistent with the Department's Nonpoint Source Management Plan.

Water pollution abatement project: Any abatement facilities, including without limitation rehabilitation of abatement facilities to remove, curtail or otherwise mitigate infiltration and inflow, collection system, treatment works and treatment facilities as defined in M.G.L. c. 21, s. 26A, and any eligible facilities for implementation of a nonpoint source pollution control management program or estuary conservation and management plan pursuant to the Clean Water Act.

44.04: Eligible Projects

- (1) Any water pollution abatement project, as defined in 310 CMR 44.03, is eligible to receive financial assistance from the Trust pursuant to the Act and 310 CMR 44.00. More specifically, eligible projects fall into the following categories:
 - (a) Wastewater Treatment Projects, as defined in 310 CMR 44.03;
 - (b) Infiltration Inflow ("I/I") Projects, as defined in 310 CMR 44.03;
 - (c) Collection System Projects, as defined in 310 CMR 44.03, provided, however, that 75% of the expected wastewater flow into the proposed collection system will be for wastewater flows in existence as of July 1, 1995;
 - (d) Nonpoint Source Projects, as defined in 310 CMR 44.03, including but not limited to projects financed under the Community Septic Management Program within the Fund to assist eligible homeowners to upgrade failed septic systems in compliance with 310 CMR 15.000 (Title 5) through underlying betterment agreements between a local governmental unit and such homeowners; and
 - (e) The planning and/or design for any one of the project categories identified in 310 CMR 44.04(1)(a) through (d), including but not limited to comprehensive wastewater management planning under 310 CMR 44.08(2) and (3) and planning projects which implement the Nonpoint Source Management Plan, as developed and updated by the Department pursuant to s.319 of the Clean Water Act, provided that the total funding allocated for planning and/or design projects shall not exceed 10% of the total financial assistance authorized on the calendar year Intended Use Plan Project Listing portion of the priority list. Nonpoint Source planning projects shall not be subject to the above 10% funding allocation, but this exemption shall expire on January 1, 2000, unless extended in writing by the Department. The Department may modify the above allocation of funds consistent with its identification of planning and/or design projects as a funding priority in a particular calendar year pursuant to 310 CMR 44.06(3).
 - (f) any project in the categories identified in 310 CMR 44.04(1)(a) through (d) which utilizes a single contractor to design, build and/or operate the project facilities, provided the procurement and use of such contractor is authorized by law, the project conforms with the state constitutional requirements governing the use of Commonwealth funds for public purposes, and the project otherwise meets the requirements of 310 CMR 44.00. The operational costs of such projects shall be ineligible for SRF assistance.

44.05: Priority System

- (1) Establishment of calendar year priority list.
 - (a) Prior to the beginning of each calendar year, the Department shall establish a single, annual list of projects prioritized to receive financial assistance pursuant to 310 CMR 44.00. The priority list will group projects into the following three categories: (1) high priority projects, (2) medium priority projects, and (3) low priority projects. For the purpose of prioritizing projects financed under the Community Septic Management Program, which has its own legislatively dedicated funding allotment, the Department may distinguish the priority and the funding status of Community Septic Management Program projects from other projects on the priority list.
 - (b) In establishing the priority list, the Department may require local government units to submit any information deemed necessary by the Department for project evaluation, including but not limited to, information which addresses the proposed project's compliance with the Intended Use Plan Project Listing criteria in 310 CMR 44.03(2) and the Project Selection Criteria in 310 CMR 44.06. The Department may establish a reasonable deadline for its receipt of such information, and may decline to evaluate and prioritize a project if the Department determines that the local governmental unit has failed to provide sufficient information.
 - (c) Prior to adopting the priority list, the Department shall conduct a public hearing to receive and consider public comment on the proposed list. The Department will ensure that notice of the public hearing will be published in one or more newspapers of general circulation thirty (30) days prior to the date of the hearing.
- (2) Intended Use Plan Project Listing.
 - (a) Eligible projects which the Department finds are ready to proceed and for which funds are available in the calendar year in which the priority list is established shall be placed on the Intended Use Plan Project Listing portion of the priority list. The Department reserves the right to establish an Intended Use Plan Project Listing that contains fewer projects than would utilize the total amount of funding available in the relevant calendar year, or, alternatively, to expand the Intended Use Plan Project Listing during the course of the relevant calendar year based on an additional allocation of available funding.
 - (b) The local governmental unit proposing the project must show that its project meets each of the following criteria in order for the Department to place the project on the Intended Use Plan Project Listing:
 1. As determined by the Department, the project's environmental, and/or public health benefits, as evidenced by its priority category on the priority list, are sufficiently high to warrant its funding as a priority in the relevant calendar year;
 2. As determined by the Department, the project's environmental and/or public health benefits outweigh any expected negative impacts to water quality or water quantity or to the public health which are directly attributable to the project;
 3. The local governmental unit has already obtained its local funding authorization for the project, or has committed to a specific schedule to obtain such funding authorization by June 30th of the relevant calendar year; and

4. The local governmental unit demonstrates to the Department's satisfaction that its project is sufficiently advanced in its implementation such that the local governmental unit will file a complete loan application with the Department for the project by October 15th of the relevant calendar year.

A complete application includes, as applicable, approvable plans and specifications for the project and evidence that the local governmental unit has, at a minimum, filed applications for any permits or environmental reviews applicable to the project. As provided in 310 CMR 44.11(1)(b), the Department may deny any application which it determines to be incomplete.

(c) In the event that a project placed on Intended Use Plan Project Listing fails during the course of the calendar year to meet one or more of the criteria in 310 CMR 44.05(2)(b), the project may be removed from the Intended Use Plan Project Listing and returned to the applicable priority category on the priority list. In such event, the Department reserves the right to raise one or more project(s) which are determined by the Department to be of the highest priority and which meet the criteria in 310 CMR 44.05(2)(b), consistent with available funding, to the Intended Use Plan Project Listing. Subject to the availability of funding and the project's priority, the Department further reserves the right to restore any project removed from the Intended Use Plan Project Listing for failure to meet the criteria in 310 CMR 44.05(2)(b) if the project thereafter meets those criteria prior to the end of the relevant calendar year.

(d) The implementation of some projects on the Intended Use Plan Project Listing will take place over two years or more. For such multi-year projects, the Department will limit the amount of actual funding reserved for the project on each annual Intended Use Plan Project Listing to the amount needed to fund the project for one year. In the event that a multi-year project receives a project approval certificate from the Department by the end of the relevant calendar year, the Department will reserve another annual increment(s) of funding for the project on subsequent calendar year Intended Use Plan Project Listings, subject to the availability of funding, and provided the project is implemented in accordance with the schedule in the project approval certificate, as determined by the Department. The limitation on financial assistance in 310 CMR 44.05(3) shall apply to any amounts reserved as annual increments of funding for a multi-year project on subsequent calendar year Intended Use Plan Project Listings.

(3) Limitation on Financial Assistance.

(a) No local government unit shall receive Department approval for financial assistance from the Trust for a project or projects in a calendar year in any amount in excess of 33% of the total financial assistance authorized on the Intended Use Plan Project Listing portion of the priority list in that calendar year, including any amounts reserved as annual increments of funding for a multi-year project on subsequent calendar year Intended Use Plan Project Listings.

(b) The Department reserves the right to waive the borrower limitation on financial assistance set forth in 310 CMR 44.05(3)(a) if the Department determines that one or more projects on the Intended Use Plan Project Listing portion of the applicable priority list has failed or will fail to meet the criteria in 310 CMR 44.05(2)(b) by October 15th in the relevant calendar year, or if the Department allocates additional available funding to the Intended Use Plan Project Listing during the course of the relevant calendar year.

44.06 Project Selection Criteria

(1) Except as provided for in 310 CMR 44.06(2), (3) and (4), the Department will use the evaluation criteria set forth below to determine a project's placement in a high, medium or low project priority category on the calendar year priority list. The Department, through written guidance, will assign a numerical point range to each of the evaluation criteria in 310 CMR 44.06(1) which will be used to further determine a project's placement on the priority list.

(a) Environmental Criteria.

1. The extent to which the project will eliminate or mitigate a risk to public health. Relevant factors to consider may include but are not limited to:

- a. The extent to which the project is needed to improve, restore or protect a public or private drinking water supply.
- b. The size and character of the population threatened or negatively impacted by the identified risk to public health (e.g., users of a community public water system, owners of private wells, the number of children, the elderly, persons with pre-existing health risks), and the extent to which the project will eliminate or mitigate the public health risk to the identified population.
- c. The extent to which the project will eliminate or mitigate a public health hazard or public nuisance, as determined by the local health authority and/or the Department (e.g., sewerage surcharging; failed 310 CMR 15.000 (Title 5) systems).

2. The severity of the environmental problem which the project is intended to address. Relevant factors to consider may include but are not limited to:

- a. The severity of the specific water quality or sediment parameter problems in the relevant water body (e.g., biochemical oxygen demand, suspended solids, pH, temperature, nitrogen, phosphorus, metals).
- b. Whether the relevant water body has been identified on the Commonwealth's s.303(d) list as failing to meet water quality standards for specific parameters.
- c. Whether the relevant water body currently meets water quality standards and its designated water quality uses under 314 CMR 4.00.
- d. Whether the relevant water body is a significant public recreation resource, a state Area of Critical Environmental Concern, an outstanding resource water as determined by the Commonwealth, a federally designated river, etc.
- e. Whether there are adverse impacts to living resources such as commercial or recreational fisheries, or endangered or wildlife species and their habitats.

- f. The extent to which there are other sensitive environmental resources (such as wetlands, Zones I and II of public water supplies, shellfish or cold water fisheries) or water dependent recreational uses which are threatened or negatively impacted by the identified environmental problem.
3. The extent to which the project will have demonstrable water quality benefits which will effectively address the identified environmental problem. Relevant factors to consider may include but are not limited to:

The extent to which the local governmental unit's jurisdiction and the project's objectives, scope and proposed implementation demonstrate the project's capability to eliminate or significantly mitigate the identified environmental problems.
4. The extent to which the project is needed to come into or maintain compliance with applicable federal and/or state discharge permit(s) or other federal and/or state water pollution control requirements, and the effect of compliance on water quality and/or public health. Relevant factors to consider may include but are not limited to:
 - a. The extent to which the project is needed to ensure compliance with an existing federal or state court or administrative order.
 - b. The extent to which the project is needed to ensure compliance with a federal or state discharge permit (e.g., NPDES permit limits) or federal or state water pollution control regulation (e.g., 310 CMR 15.000 (Title 5)).
 - c. The extent to which the project's maintenance of compliance with an order, discharge permit or regulation demonstrably benefits or protects the water quality and/or public health (e.g., projects which rehabilitate or upgrade existing facilities and are designed to keep a facility in compliance and/or to prevent water resource degradations).
- (b) Program and Implementation Criteria.
 1. The extent to which the project implements or is consistent with one or more current watershed management plans (e.g., DEP basin plans) and/or watershed protection plans (e.g., local Zone II land use controls, comprehensive conservation management plans), or otherwise effectively addresses a watershed priority, as determined by the Department.
 2. The extent to which the capacity provided by the project is needed, including, more specifically, whether the project will duplicate existing treatment or disposal capacity available at an economic cost within the relevant region.
 3. The extent to which, as determined by the Department, the project's environmental and/or public health benefits outweigh any expected negative impacts to water quality, water quantity or to the public health which are directly attributable to the project.
 4. The extent to which the project is consistent with local and regional growth and/or infrastructure plans, and promotes the rehabilitation and revitalization of infrastructure, structures, sites, and areas previously developed and still suitable for economic (re)use, as provided in Executive Order 385.
 5. Whether the project constitutes or is a component of a multi-community or regional approach to addressing the identified environmental problem.
 6. The extent to which the project utilizes Department-approved innovative/alternative technology to effectively address the identified environmental problem.
 7. Whether the local governmental unit has implemented a pricing system for sewer services in accordance with the provisions of M.G.L. c. 40, s.39J and c. 275, Acts of 1985.
- (2) Certain of the project selection criteria in 310 CMR 44.06(1) do not apply to planning projects (e.g., the extent to which the project will have demonstrable water quality benefits which will effectively address the identified problem). The Department will limit its evaluation of planning projects to the relevant criteria.
- (3) In establishing the calendar year priority list pursuant to 310 CMR 44.05(1), the Department may:
 - (a) identify project categories and/or watersheds as funding priorities in a particular calendar year, consistent with the Project Selection Criteria in 310 CMR 44.06(1); and
 - (b) modify and/or further specify the factors or point system to be used to evaluate the extent to which a project meets the Project Selection Criteria in 310 CMR 44.06(1), including any project or program priorities identified by the Department as a funding priority in a particular calendar year pursuant to 310 CMR 44.06(3) and (4).
- (4) Before finally adopting substantial modifications to the Project Selection Criteria and/or the related point system, the Department will notice such modifications in the *Environmental Monitor* and provide an opportunity for public comment for a period of not less than thirty days, including conducting a minimum of one public hearing.

44.07: Eligible Project Costs

- (1) Costs which the Department determines are necessary for the completion of the project are eligible for financing in the loan and to receive a subsidy under the loan.
- (2) Costs which the Department determines are not necessary for completion of the project are ineligible for financing in the loan.
- (3) The Department will base its eligible project cost determinations on its "Policy on Eligible Project Costs", which identifies the specific types of costs that are within the two categories under 310 CMR 44.07(1) and (2).
- (4) Project costs incurred by an applicant prior to the date of issuance of the Department's project approval certificate are not eligible for a subsidy under the loan, except as follows:

(a) Preliminary engineering, comprehensive wastewater management planning, design or related professional services and construction work, may be approved by the Department prior to the issuance of a project approval certificate as project costs eligible for subsidy if:

1. the applicant has submitted a written and adequately substantiated request for approval;
2. written approval by the Department is obtained before initiation of the project and award of any loan for the project; and
3. the project is included and maintains its status on the current calendar year Intended Use Plan Project Listing.

(b) The Department's prior approval of costs in accordance with 310 CMR 44.07(4)(a) does not constitute a commitment to approve financial assistance for any project. Instead, such costs will be considered eligible project costs only if a loan is made by the Trust for the project. Accordingly, an applicant receiving the Department's prior approval of costs in accordance with 310 CMR 44.07(4)(a) proceeds at its own risk.

(5) Costs incurred in excess of the approved project costs are not eligible for financing by the loan unless the project approval certificate and the loan are both amended to include the cost increase.

(6) A loan recipient shall exercise its best efforts to accomplish the work program set forth in the loan within the loan amount. Whenever a loan recipient reasonably believes that its project costs will exceed or be substantially less than the approved loan amount, it must promptly notify the Department in writing. The loan recipient must submit revised cost estimates for the project to the Department as soon thereafter as practicable. Neither the Department or the Trust is under any obligation to approve costs in excess of the amount previously approved in the project approval certificate and loan.

(7) The final eligible project costs shall be the eligible costs approved by the Department upon completion of the project, unless audited. If such project costs are audited, the final eligible costs shall be the eligible costs approved by the Department at the completion of the audit.

44.08: Planning Requirements

(1) Introduction. 310 CMR 44.08 addresses two categories of requirements related to planning. 310 CMR 44.08(2) requires a local government unit to demonstrate that its SRF project is consistent with existing state, regional and local water resource and wastewater planning requirements. 310 CMR 44.08(3) identifies two levels of SRF-specific project planning (comprehensive wastewater management planning or a project evaluation report) which apply to different types of SRF projects. In summary, comprehensive wastewater management planning is limited to complex and/or controversial SRF projects, as determined by the Department; a less comprehensive project evaluation report is required for all other SRF projects.

(2) Consistency of SRF projects with Water Resource and Wastewater Planning Requirements.

(a) As provided in M.G.L. c. 21, s.27A(d), a local government unit applying for assistance from the Trust must demonstrate that its project is consistent with existing state, regional and local water resource and wastewater planning requirements, including but not limited to:

1. river basin water quality plans pursuant to s.303(e) of the Clean Water Act;
2. nonpoint source management plans pursuant to s.319 of the Clean Water Act;
3. estuaries management plans pursuant to s.320 of the Clean Water Act;
4. local water resource management plans pursuant to regulations of the water resources commission; and
5. water emergency planning pursuant to M.G.L. c. 21G.

(b) Applicants shall also certify that land use and other controls in place (e.g., zoning bylaws) are consistent with the wastewater system service populations projected in any comprehensive wastewater management plan of the applicant. An applicant's certification shall include a description of all such land use and other controls in place as supporting documentation for its certification.

(3) Planning Required for SRF Projects.

(a) Comprehensive Wastewater Management Planning. Unless otherwise determined by the Department, projects having major, complicated or controversial project scope, siting, implementation or impact issues shall be the result of Comprehensive Wastewater Management Planning, as described in 310 CMR 44.08(3). Examples of such projects include, but are not limited to, major wastewater treatment facilities, projects where the only solutions identified to date will likely result in impacts on sensitive environmental resources, and projects which may result in a long term impact on the water quality of the receiving waters, such as combined sewer overflow projects.

1. Comprehensive Wastewater Management Planning involves a systematic evaluation of the project need and the project alternatives. Through an evaluation of feasible project alternatives, the comprehensive wastewater management plan must demonstrate that the selected alternative is cost effective and implementable from legal, institutional, financial and management standpoints.
2. The Department will determine the required scope of a comprehensive wastewater management plan based on the nature and duration of the proposed project. However, unless otherwise determined by the Department, the comprehensive wastewater management planning must be performed consistent with the Department's "Guide to Comprehensive Wastewater Management Planning". The Department's "Guide to Comprehensive Wastewater Management Planning" sets forth specific guidance on the required components of the comprehensive wastewater management process, including the identification of the wastewater needs/problems, the development and evaluation

of alternatives, the cost effectiveness analysis, the selection of an alternative, and the public participation requirements.

(b) Project Evaluation Report. Unless otherwise determined by the Department, planning for projects other than the project categories identified in 310 CMR 44.08(3)(a) shall be limited to the development of a Project Evaluation Report, as described in 310 CMR 44.08(3)(b).

The Department will determine the required scope of a Project Evaluation Report based on the nature and duration of the proposed Nonpoint Source project. However, unless otherwise determined by the Department, a complete Project Evaluation Report must include:

1. A description of the proposed project;
2. An analysis of the cost-effectiveness of the project and the alternatives considered;
3. For the selected alternative, a concise description at an appropriate level of detail, of at least the following:
 - a. the relevant design parameters for the project;
 - b. the estimated capital construction and operation and maintenance costs of the project (identifying possible federal, state and local shares), and a description of the manner in which local costs will be financed;
 - c. the cost impacts on system users and non-users, or where the project is not user-based, cost impacts on the local government unit budget; and
 - d. the institutional, financial, legal and management arrangements necessary for successful implementation of the project.
4. A public participation program that includes, at a minimum, one public meeting to discuss the alternatives and their environmental impact and a public hearing on the recommended plan including its environmental impact.

44.09 Environmental Review and Federal Cross-Cutter Requirements

(1) Environmental Review Requirements.

(a) All projects approved by the Department to receive a loan from the Trust shall, at a minimum, comply with the requirements of MEPA and the regulations promulgated thereunder at 301 CMR 11.00. In addition, a public hearing shall be held on the project if the Department determines that the project is controversial, or if the Department otherwise determines that a hearing is in the public interest. The Department may also require the local governmental unit to consider project alternatives and to provide the public an opportunity to comment on such alternatives.

(b) Projects required to be the result of comprehensive wastewater management planning, as provided in 310 CMR 44.08(2)(a) and (3), shall also comply with the environmental review and process requirements in the Department's "Guide to Comprehensive Wastewater Management Planning".

(2) Federal Cross-Cutter Requirements. All projects to be funded by funds directly made available by federal capitalization grants shall comply with all federal cross-cutters applicable to the project, as determined by the Department. The Department may require any other project to comply with one or more of the federal cross-cutters deemed applicable to the project by the Department.

44.10: Affirmative Action and M/WBE Requirements

(1) Local governmental units receiving financial assistance from the Trust shall comply with applicable federal and state anti discrimination laws and requirements, including the Department's requirements in the areas of Affirmative Action in employment and Minority and Women Business Enterprise ("M/WBE") utilization in contracting.

(a) In the area of Affirmative Action, such local government units shall adopt, for use in all contracts for construction projects with a dollar value in excess of \$10,000, an adapted version of the Commonwealth of Massachusetts' "Supplemental Equal Employment Opportunity Anti-discrimination and Affirmative Action Program." Such contracts may include minority workforce percentages greater than those required for the geographical locations of the construction project as set forth in the Supplemental Program.

(b) In the area of M/WBE utilization, such local governmental units shall make positive efforts to use M/WBEs for use in all construction, service and supply subagreements for the project financed by the loan.

1. Such efforts should achieve the applicable federal and/or state goals established for MBE participation and WBE participation, but, at a minimum, should allow M/WBEs the maximum feasible opportunity to compete for project subagreements.
2. The local governmental unit receiving a loan from the Trust shall promptly notify the Department in writing when it has good reason to believe that its positive efforts to use M/WBEs in the subagreements for the project will not achieve one or both of the applicable M/WBE utilization goals.
3. Prior to the publication of the availability of any contract for construction work in excess of \$10,000 to be performed under any financial assistance program pursuant to 310 CMR 44.00, the local government unit shall notify the State Office of Minority and Women Business Assistance ("SOMWBA") of its intent to solicit bids, and shall make available to SOMWBA (upon request) copies of the proposal and/or invitation to bid and the related plans and specifications.

44.11 Project Approval and Regulation

(1) Application.

(a) A local governmental unit whose project is on the Intended Use Plan Project Listing portion of the calendar year priority list must first apply to the Department to receive a loan from the Trust to finance costs of the project. The local governmental unit must file a complete application with the Department containing the following information and documentation:

1. General Information which must include evidence of a funding authorization by the local governmental unit sufficient to cover the project cost, and certification of the authority of the local governmental unit to file the application.
2. Financial Information pertinent to the Trust's evaluation of the applicant's ability to repay the loan.
3. Project Information which demonstrates to the Department's satisfaction that the project is sufficiently advanced in its implementation, including, as applicable:
 - a. approvable plans and specifications for the project;
 - b. evidence that the local governmental unit has, at a minimum, filed applications for any permits or environmental reviews applicable to the project;
 - c. the project scope of work, project evaluation report, or the comprehensive wastewater management planning for the project; and
 - d. a project schedule that demonstrates to the Department's satisfaction that the project will commence no later than six months from the expected date of issuance of a project approval certificate, assuming the Department determines that the project is approvable.
4. Supplemental Information such as title to project site or evidence of some other appropriate property interest in the project site, any necessary intermunicipal agreements, documentation related to the user charge system, etc.
5. Applicant Certification as to the completeness of the application in accordance with the Department's application form and requirements, and as to the accuracy and completeness of the information provided by the applicant in its application.

(b) The Department may deny any application which it determines to be incomplete. Prior to taking final action on an application, the Department may request the applicant to clarify and/or supplement information contained in its application, or to attend an informal conference(s) with the Department to discuss the application.

(2) Project Approval Certificate.

(a) The Department's approval of an applicant's project shall be contained in a Project Approval Certificate issued to the Trust. As provided in the Act, the Department's issuance of a Project Approval Certificate is a prior necessary condition to the award of a loan by the Trust to finance the costs of a project.

(b) The Department shall not approve a project for a loan from the Trust unless the local governmental unit:

1. demonstrates that its project is consistent with existing state, regional and local water resource and wastewater planning requirements as described in 310 CMR 44.08(2) ("Consistency with Water Resource and Wastewater Planning Requirements"); and
2. adopts a user charge system in accordance with the Department guidance which is designed to provide adequate revenues required for operation and maintenance, including replacement, of the project.

The Department reserves the discretion to determine that the user charge system requirement does not apply to certain Nonpoint Source Projects (e.g., a stormwater control project that is not providing ongoing service to an identified set of users).

(c) In addition to approving the project, the Project Approval Certificate shall certify those costs of the project determined by the Department to be eligible for assistance from a loan, and those costs determined to be eligible for a subsidy under the loan. The Project Approval Certificate shall also identify the level of subsidy applicable to the project in accordance with M.G.L. c. 29C and, as applicable, any additional subsidy applicable to the project authorized by special law. Subsidy is expressed as a grant equivalency percentage in the Project Approval Certificate.

(d) The Project Approval Certificate may also contain such other conditions and limitations as the Department deems necessary to ensure compliance by a local governmental unit with 310 CMR 44.00 and with all other federal and state statutes and regulations applicable to the construction and operation of the project. Such conditions shall include, but are not limited to, a project completion schedule which shall require the local government unit to initiate the project, as determined by the Department, no later than six months from the date of the Department's issuance of the Project Approval Certificate.

(e) The Department shall issue the Project Approval Certificate to the Trust for its action and forward a copy of such certificate to the local governmental unit concurrently. The Trust shall thereafter enter into a loan commitment with a local governmental unit consistent with the terms of the Project Approval Certificate. Following entry into a binding loan commitment, the Trust shall prepare and deliver a loan agreement for execution by the local governmental unit, consistent with the terms of the Project Approval Certificate as incorporated into the Department's Project Regulatory Agreement.

(3) Project Regulatory Agreement.

(a) On or prior to the date of a loan from the Trust for a project approved by the Department, the local governmental unit and the Department shall execute and deliver to the Trust a Project Regulatory Agreement relating to the Department's regulation and supervision of the project in accordance with 310 CMR 44.00. The Project Regulatory Agreement shall be in form and substance satisfactory to the Department. The Project Regulatory Agreement shall be incorporated by reference in the Trust loan agreement and failure by the local governmental unit to comply with the Project Regulatory Agreement shall constitute an event of default under the loan agreement.

(b) The Project Regulatory Agreement shall contain provisions consistent with the Project Approval Certificate. In addition to incorporating pertinent conditions in the Project Approval Certificate, the Project Regulatory Agreement may also contain such other conditions and limitations as the Department deems necessary for its regulation and supervision of the project in accordance with 310 CMR 44.00, including but not limited to:

1. the schedule for disbursement of loan proceeds;
2. the payment requisition requirements and procedures;
3. the requirements and procedures for the Department's audit of payment requisitions;
4. covenants by the local governmental unit related to the project, including a covenant to comply with all federal and state statutes and regulations applicable to the local governmental unit's construction and operation of the project;
5. the measures available to the Department to remedy a default by the local governmental unit under the Project Regulatory Agreement;
6. any requirements regarding certification of a project's performance in accordance with the Department's approval;
7. compliance with the Department's guidance on the use of and requirements for professional subagreements.

REGULATORY AUTHORITY:

310 CMR 44.00: St. 1989, c. 275, s. 3; St. 1992, c. 203, s. 1; M.G.L. c. 21, s. 27A

Appendix B

Authority to File
And
Certifying Authority to File

Sample: Resolution Authorizing Officer to File Application with the Massachusetts Department of Environmental Protection for State Financial Assistance for Water Pollution Abatement Projects.

AUTHORITY TO FILE

Whereas, _____, after thorough investigation,
(Applicant)
has determined that the work activity consisting of:

_____ is both in the public interest and necessary to protect the public health, and that to undertake this activity, it is necessary to apply for assistance; and

Whereas, the Department of Environmental Protection ("Mass DEP") and the Massachusetts Water Pollution Abatement Trust (the "Trust") of the Commonwealth of Massachusetts, pursuant to Chapter 21 and Chapter 29C of the General Laws of the Commonwealth ("Chapter 21" and "Chapter 29C") are authorized to make loans to municipalities for the purpose of funding planning and construction activities relative to Water Pollution Abatement Projects; and

Whereas, the Applicant has examined the provisions of the Act, Chapter 21 and Chapter 29C, and believes it to be in the public interest to file a loan application.

NOW, THEREFORE, BE IT RESOLVED by _____
(Governing Body)
as follows:

1. That _____ is hereby authorized on behalf
(Title of Official)
of the Applicant to file applications and execute agreements for grant and/or loan assistance as well as furnishing such information, data and documents pertaining to the applicant for a grant(s) and/or loan(s) as may be required; and otherwise to act as the authorized representative of the Applicant in connection with this application;
2. That the purpose of said loan(s), if awarded, shall be to fund construction activities.
3. That if said award is made the Applicant agrees to pay those costs which constitute the required Applicant's share of the project cost.

Sample: Certification to the Massachusetts Department of Environmental Protection as to Authority to File Applications for State Financial Assistance for Water Pollution Abatement Projects.

CERTIFYING AUTHORITY TO FILE

I hereby certify that the _____ of
(Name of Governing Body)

the _____
(Corporate Name of Local Government Unit)

(hereinafter referred to as the "Applicant"), at a meeting noticed and conducted in accordance with all applicable legal requirements, duly voted to authorize

(Title of Local Government Unit Official)

to act on behalf of the Applicant, as its agent, in filing applications for, executing agreements regarding, and performing any and all other actions necessary to secure for the Applicant such loan(s) for construction or planning of Water Pollution Abatement Projects as may be made available to the Applicant pursuant to the provisions of the Massachusetts Clean Waters Act (M.G.L. c.21, section 27-33E, inclusive, as amended) and the Water Pollution Abatement Revolving Loan Program (M.G.L. c.29C) for the following project:

(describe project)

I hereby certify that _____ is the present incumbent
(Name of Person)

of the position referenced above, and do hereby certify:

1. That the attached resolution is a true and correct copy of the resolution as finally adopted at a meeting of the governing body held on the ____ day of ____, 20__, and duly recorded in my office:
2. That said meeting was duly convened and held in all respects in accordance with law and to the extent required by law, due and proper notice of such meeting was given; and a legal quorum was present throughout the meeting, and a legally sufficient number of members of the governing body voted in the proper manner and for the adoption of said resolution; that all other requirements and proceedings under the

law incident to the proper adoption or passage of said resolution, including publication, if required, have been duly fulfilled, carried out, and otherwise observed; and that I am authorized to execute this certificate:

3. That if an impression of a seal has been affixed below, it constitutes the official seal of the Applicant and this certificate is hereby executed under such official seal; but if no seal has been affixed, the Applicant does not have an official seal:

IN WITNESS WHEREOF, I have hereunto set my hand this

_____ day of _____, 20____

Appendix C

Sample Language for Local Appropriations

MASSACHUSETTS WATER POLLUTION ABATEMENT TRUST

NOTE: The following are suggested forms of a town meeting article and vote and city council loan order. These forms are provided as guidance only. Bond counsel to the municipality should be consulted to determine the exact form of authorization required and to determine which local body or official must approve the terms of the borrowing and the forms of documentation. Note also that districts and regional local governmental units may have substantially different authorization requirements from those indicated below for towns and cities.

SUGGESTED FORM OF TOWN MEETING ARTICLE AND VOTE

Article

To see if the Town will vote to appropriate a sum of money for the [construction] [planning] of (insert description of the water pollution abatement project); to determine whether this appropriation shall be raised by borrowing from the Massachusetts Water Pollution Abatement Trust or otherwise; and to take any other action relative thereto.

Vote

Voted: that \$_____ is appropriated for the purpose of financing the [construction] [planning] of (insert description of the water pollution abatement project) including without limitation all costs thereof as defined in Section 1 of Chapter 29C of the General Laws, as most recently amended by St. 1998, c.78; that to meet this appropriation the Treasurer with the approval of the Selectmen is authorized to borrow \$_____ and issue bonds or notes therefore under (Chapter 44 of the General Laws or insert reference to other applicable general or special law governing the issuance of local bonds) and/or Chapter 29C of the General Laws, as most recently amended by St. 1998, c.78; that such bonds or notes shall be general obligations of the Town unless the Treasurer with the approval of the Selectmen determines that they should be issued as limited obligations and may be secured by local system revenues as defined in Section 1 of Chapter 29C, as most recently amended by St. 1998, c.78; that the Treasurer with the approval of the Selectmen is authorized to borrow all or a portion of such amount from the Massachusetts Water Pollution Abatement Trust established pursuant to Chapter 29C, as most recently amended by St. 1998, c.78; and in connection therewith to enter into a loan agreement and/or security agreement with the Trust and otherwise to contract with the Trust and the Department of Environmental Protection with respect to such loan and for any federal or state aid available for the project or for the financing thereof; that the (Board of Selectmen, Board of Public Works or other appropriate local body or official) is authorized to enter into a project regulatory agreement with the Department of Environmental Protection, to expend all funds available for the project and to take any other action necessary to carry out the project.

SUGGESTED FORM OF CITY COUNCIL LOAN ORDER

Ordered: that \$_____ is appropriated for the purpose of financing the [construction] [planning] of (insert description of the water pollution abatement project) including without limitation all costs thereof as defined in Section 1 of Chapter 29C of the General Laws, as most recently amended by St. 1998, c.78; that to meet this appropriation the Treasurer with the approval of the (Mayor or Manager) and the (Auditor, Finance Committee or other appropriate local body or official) is authorized to borrow \$_____ and issue bonds or notes therefore under (Chapter 44 of the General Laws or insert reference to other applicable general or special law governing the issuance of local bonds) and/or Chapter 29C of the General Laws, as most recently amended by St. 1998, c.78; that such bonds or notes shall be general obligations of the City unless the Treasurer with the approval of the (Mayor or Manager) and the (Auditor, Finance Committee or other appropriate local body or official) determines that they should be issued as limited obligations and may be secured by local system revenues as defined in Section 1 of Chapter 29C, as most recently amended by St. 1998, c.78; that the Treasurer with the approval of the (Mayor or Manager) [and the (Auditor, Finance Committee or other appropriate local body or official)] is authorized to borrow all or a portion of such amount from the Massachusetts Water Pollution Abatement Trust established pursuant to Chapter 29C, as most recently amended by St. 1998, c.78; and in connection therewith to enter into a loan agreement and/or a security agreement with the Trust and otherwise to contract with the Trust and the Department of Environmental Protection with respect to such loan and for any federal or state aid available for the project or for the financing thereof; that the (Mayor or Manager) is authorized to enter into a project regulatory agreement with the Department of Environmental Protection, to expend all funds available for the project and to take any other action necessary to carry out the project.

Appendix D

Model Sub-Agreement Provisions

Professional Services Agreements -Required Provisions

All contracts between CWSRF borrowers and professional services consultants shall contain the following provisions.

- (1) The owner and the contractor agree that the following provisions apply to the eligible work to be performed under this agreement and that such provisions supersede any conflicting provisions of this agreement.
- (2) The work under this agreement is funded in part by the water pollution abatement fund. Neither the Commonwealth of Massachusetts nor the Department of Environmental Protection or the Water Pollution Abatement Trust is a party to this agreement. As used in these clauses, the words "the date of execution of this agreement" means the date of execution of this agreement and any subsequent modification of the terms, compensation or scope of services pertinent to unperformed work.
- (3) The owner's rights and remedies provided in these clauses are in addition to any other rights and remedies provided by law or this agreement.
- (4) The contractor shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all designs, drawings, specifications, reports, and other services furnished by the contractor under this agreement. The contractor shall without additional compensation, correct or revise any errors, omissions, or other deficiencies in his designs, drawings, specifications, reports, and other services.
- (5) The contractor shall perform such professional services as may be necessary to accomplish the work required to be performed under this agreement, in accordance with this agreement and applicable Mass DEP requirements in effect on the date of execution of this agreement.
- (6) The owner's or Mass DEP's approval of drawings, designs, specifications, reports, and incidental work or materials furnished hereunder shall not in any way relieve the contractor of responsibility for the technical adequacy of his work. Neither the owner's nor Mass DEP's review, approval or acceptance of, nor payment for, any of the services shall be construed to operate as a waiver of any rights under this agreement or of any cause of action arising out of the performance of this agreement.
- (7) The contractor shall be and shall remain liable, in accordance with applicable law, for all damages to the owner or Mass DEP caused by the contractor's negligent performance of any of the services furnished under this agreement, except for errors, omissions or other deficiencies to the extent solely attributable to the owner, owner-furnished data or any third party not controlled by the contractor. The contractor shall not be responsible for any time delays in the project caused by circumstances beyond the contractor's control. Where innovative processes or techniques are recommended by the engineer and are used, the engineer shall be liable only for gross negligence to the extent of such use.
- (8) The services to be performed by the contractor shall include all services required to complete the scope of work as defined and set out in the professional services agreement to which these provisions are attached in accordance with applicable regulations.
- (9) The owner may, at any time, by written order, make changes within the general scope of this agreement in the services or work to be performed. If such changes cause an increase or decrease in the contractor's cost of, or time required for, performance of any services under this agreement, whether or not changed by any order, an equitable adjustment shall be made and this agreement shall be modified in writing accordingly. The contractor must assert any claim for adjustment under this clause in writing within 30 days from the date of receipt by the contractor of the notification of change, unless the owner grants a further period of time before the date of final payment under this agreement.
- (10) No services for which an additional compensation will be charged by the contractor shall be furnished without the written authorization of the owner.

(11) In the event that there is a modification of Mass DEP's requirements relating to the services to be performed under this agreement after the date of execution of this agreement, the increased or decreased cost of performance of the services provided for in this agreement shall be reflected in an appropriate modification of this agreement.

(12) Either party may terminate this agreement, in whole or in part, in writing, if the other party substantially fails to fulfill its obligations under this agreement through no fault of the terminating party. However, no such termination may be effected unless the other party is given (1) not less than ten calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate and (2) an opportunity for consultation with the terminating party before termination.

(13) The owner may terminate this agreement, in whole or in part, in writing, for its convenience, if the termination is for good cause (such as for legal or financial reasons, major changes in the work or program requirements, initiation of a new phase) and the contractor is given (1) not less than ten calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate, and (2) an opportunity for consultation with the terminating party before termination.

(14) If the owner terminates for default, an equitable adjustment in the price provided for in this agreement shall be made, but (1) no amount shall be allowed for anticipated profit on services not performed or other work, and (2) any payment due to the contractor at the time of termination may be adjusted to the extent of any additional costs the owner incurs because of the contractor's default.

If the contractor terminates for default or if the owner terminates for convenience, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to the contractor for services rendered and expenses incurred before the termination, in addition to termination settlement costs the contractor reasonably incurs relating to commitments which had become firm before the termination.

(15) Upon receipt of a termination action under paragraphs (13) or (14), the contractor shall (1) promptly discontinue all services affected (unless the notice directs otherwise), and (2) deliver or otherwise make available to the owner all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as the contractor may have accumulated in performing this agreement, whether completed or in process.

(16) Upon termination under paragraph (13) or (14), the owner may take over the work and prosecute the same to completion by agreement with another party or otherwise. Any work the owner takes over for completion will be completed at the owner's risk, and the owner will hold harmless the contractor from all claims and damages arising out of improper use of the contractor's work.

(17) If, after termination for failure of the contractor to fulfill contractual obligations, it is determined that the contractor had not so failed, the termination shall be deemed to have been effected for the convenience of the owner. In such event, adjustment of the price provided for in this agreement shall be made as paragraph (14) provides.

(18) Except as this agreement otherwise provides, all claims, counter-claims, disputes, and other matters in question between the owner and the contractor arising out of or relating to this agreement or the breach of it will be decided by arbitration if the parties hereto mutually agree, or in a court of competent jurisdiction pursuant to the laws of Massachusetts.

(19) The Contractor shall maintain books, records, documents, and other evidence directly pertinent to performance on eligible work under this agreement in accordance with generally accepted accounting principles and practices consistently applied. The contractor shall also maintain the financial information and data used by the contractor in the preparation or support of the cost submission and a copy of the cost summary submitted to the owner. The Governor, the Secretary of Administration and Finance, the Mass DEP's and State Auditor's Office or any of their duly authorized representatives, shall have access to such books, records, documents, and other evidence for inspection, audit, and copying. The contractor will provide proper facilities for such access and inspection.

- (20) The contractor agrees to include paragraphs (19)-(23) in all his contracts and all subcontracts directly related to project performance that are in excess of \$25,000.
- (21) Audits conducted under this provision shall be in accordance with generally accepted auditing standards and established procedures and guidelines of the reviewing or audit agency(ies).
- (22) The contractor agrees to the disclosure of all information and reports resulting from access to records under paragraphs (19) or (20), to any of the agencies referred to in paragraph (19), provided that the contractor is afforded the opportunity for an audit exit conference and an opportunity to comment and submit any supporting documentation on the pertinent portions of the draft audit report and that the final audit report will include written comments of reasonable length, if any, of the contractor.
- (23) The contractor shall maintain and make available records under paragraph (19) and (20) during performance on eligible work under this agreement and until 6 years from the date of final payment for the project. In addition, those records which relate to any "Dispute", appeal under an assistance agreement, to litigation, to the settlement of claims arising out of such performance, or to costs or items to which an audit exception has been taken, shall be maintained and made available until 3 years after the date of resolution of such appeal, litigation, claim, or exception if such date is later than six years from the date of final payment.
- (24) (This clause is applicable if the amount of this agreement exceeds \$100,000). If the owner or Mass DEP determine that any price, including fee, negotiated in connection with this agreement or any cost reimbursable under this agreement was increased by any sums because the contractor or any subcontractor furnished incomplete or inaccurate cost or pricing data or data not current as certified in his certification of current cost or pricing data, then such price, cost, or fee shall be reduced accordingly and the agreement shall be modified in writing to reflect such reduction.
- (25) Any subcontractors and outside associates or consultants required by the contractor in connection with services under this agreement will be limited to such individuals or firms as were specifically identified and agreed to during negotiations, or as the owner specifically authorizes in writing during the performance of this agreement. The owner must give prior approval for any substitutions in or additions to such subcontractors, associates, or consultants.
- (26) The contractor agrees that he will not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, handicap status or national origin.
- (27) The contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees. For breach or violation of this warranty the owner shall have the right to annul this agreement without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.
- (28) If it is found, after notice and hearing, by the owner that the contractor, or any of the contractor's agents or representatives, offered or gave gratuities (in form of entertainment, gifts, or otherwise), to any official, employee or agent of the owner, or of the state, in an attempt to secure a contract or favorable treatment in awarding, amending, or making any determination related to the performance of this agreement, the owner may, by written notice to the contractor, terminate the right of the contractor to proceed under this agreement. The owner may also pursue other rights and remedies that the law or this agreement provides. However, the existence of the facts upon which the owner bases such findings shall be in issue and may be reviewed in proceedings under the remedies clause of this agreement.
- (29) In the event this agreement is terminated as provided in paragraph (28), the owner shall be entitled: (1) To pursue the same remedies against the contractor as it could pursue in the event of a breach of the contract by the contractor, and (2) as penalty, in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by the owner) which shall be not less than three nor more than ten times the costs the contractor incurs in providing any such gratuities to any such officer or employee.

(30) The Mass DEP has the right to use, duplicate, and disclose, in whole or in part, in any manner for any purpose whatsoever, any plans, drawings, designs, specifications, computer programs (which are substantially paid for with Trust funds), technical reports, operating manuals, and other work submitted with an application or which are specified to be delivered under this agreement or which are developed or produced and paid for under this agreement. The owner and the Mass DEP reserve a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, and use such materials, in whole or in part, and to authorize others to do so. The contractor shall include appropriate provisions to achieve the purpose of this condition in all subcontracts expected to produce copyrightable subject data.

(31) All such subject data furnished by the contractor pursuant to this agreement are instruments of his services in respect of the project. It is understood that the contractor does not represent such subject data to be suitable for reuse on any other project or for any other purpose. If the owner reuses the subject data without the contractor's specific written verification or adaptation, such reuse will be at the sole risk of the owner, without liability to the contractor. Any such verification or adaptation will entitle the contractor to further compensation at rates agreed upon by the owner and the contractor.

Appendix E

Cost and Price Summary (SRF 90-1)

COST OR PRICE SUMMARY FORMAT FOR SUBAGREEMENTS UNDER THE STATE REVOLVING FUND PROGRAM				SRF-90-1	
PART I - GENERAL					
1. APPLICANT			2. PROJECT		
3. NAME OF CONTRACTOR OR SUBCONTRACTOR		4. FEIN	5. DATE OF PROPOSAL		
6. ADDRESS OF CONTRACTOR OR SUBCONTRACTOR			7. TYPE OF SERVICE TO BE FURNISHED		
PART II - COST SUMMARY					
8. DIRECT LABOR (Specify labor categories)	ESTI- MATED HOURS	HOURLY RATE	ESTIMATED COST	TOTAL	
			\$		
DIRECT LABOR TOTAL:				\$	
9. INDIRECT COSTS (Specify indirect cost pools)	RATE	x BASE =	ESTIMATED COST		
		\$	\$		
INDIRECT COSTS TOTAL:				\$	
10. OTHER DIRECT COSTS					
a. TRAVEL			ESTIMATED COST		
(1) TRANSPORTATION			\$		
(2) PER DIEM			\$		
TRAVEL SUBTOTAL:			\$		
b. EQUIPMENT, MATERIALS, SUPPLIES (Specify categories)	QTY	COST	ESTIMATED COST		
		\$	\$		
EQUIPMENT SUBTOTAL:			\$		
c. SUBCONTRACTS			ESTIMATED COST		
			\$		
SUBCONTRACTS SUBTOTAL:			\$		
d. OTHER (Specify categories)			ESTIMATED COST		
			\$		
OTHER SUBTOTAL:			\$		
OTHER DIRECT COSTS TOTAL:				\$	
11. TOTAL ESTIMATED COST				\$	
12. PROFIT				\$	
13. TOTAL PRICE				\$	

PART III - CERTIFICATIONS

14. CONTRACTOR

14a. HAS A FEDERAL AGENCY OR A FEDERALLY CERTIFIED STATE OR LOCAL AGENCY PERFORMED ANY REVIEW OF YOUR ACCOUNTS OR RECORDS IN CONNECTION WITH ANY OTHER FEDERAL GRANT OR CONTRACT WITHIN THE PAST TWELVE MONTHS?

YES NO (If "YES" give name, address, and telephone number of reviewing office.)

14b. THIS SUMMARY CONFORMS WITH THE FOLLOWING COST PRINCIPLES

14c. This proposal is submitted for use in connection with and in response to (1)_____. This is to certify that to the best of my knowledge and belief that the cost and pricing data summarized herein are complete, current, and accurate as of (2)_____ and that a financial management capability exists to fully and accurately account for the financial transactions under this project. I further certify that I understand that the subagreement price may be subject to downward renegotiation and/or recoupment where the above costs and pricing data have been determined, as a result of audit, not to have been complete, current, and accurate as of the date above.

(3) _____
DATE OF EXECUTION
SIGNATURE OF PROPOSER
TITLE OF PROPOSER

15. APPLICANT

I certify that I have reviewed the cost/price summary set forth herein and the proposed costs/price appear acceptable for subagreement award.

DATE OF EXECUTION
SIGNATURE OF APPLICANT
TITLE

16. DEP REVIEWER (if applicable)

DATE OF EXECUTION
SIGNATURE OF REVIEWER
TITLE

Appendix F

MBE/WBE Forms - Professional Services Contracts

MINORITY AND WOMEN BUSINESS ENTERPRISE PARTICIPATION FOR PROFESSIONAL SERVICES CONTRACTS

I. Purpose

The purpose of this guidance document is to assist local governmental units ("LGUs") and their Prime Consultant in demonstrating compliance with the Bureau of Resource Protection (the "Bureau"), Department of Environmental Protection's ("Mass DEP"), requirements for minority and women's business enterprise ("M/WBE") participation in professional services contracts.

II. Requirements

The Bureau applies 310 CMR 44.10 ("Affirmative Action Requirements") to professional services contracts, which requires positive efforts to achieve a goal of 4.65% MBE and 16.03% WBE participation.

III. Procedures

1. In cases where the professional services contracts achieve the goal of 4.65% MBE and 16.03% WBE participation, the LGU and/or its Prime Consultant is required to submit Form EEO-DEP-190E ("Schedule of Participation for Professional Services"), Form EEO-DEP-191E ("Letter of Intent"), and Form EEO-DEP-VIF-E ("Vendor Information Form") to Mass DEP. Form EEO-DEP-190E identifies the proposed M/WBE subcontractors, the type of services to be provided by each subcontractor (e.g., Architecture, preparation of O&M manuals, laboratory analysis, etc.), and the respective dollar value of their participation. Form EEO-DEP-191E must be completed for each M/WBE subcontractor identified on Form EEO-DEP-190E. Form EEO-DEP-VIF-E will be used to analyze the actual availability of M/WBEs to do work in the relevant contract categories, and to evaluate the need for any additional modification of the Federal "Fair Share" M/WBE utilization goals applicable to SRF projects in subsequent years.
2. In the event that a professional services contract does not achieve the goal of 4.65% MBE and 16.03% WBE participation, the Bureau may request that the LGU's Prime Consultant provide additional documentation demonstrating what positive efforts were made to achieve the participation goal. In cases where the LGU's Prime Consultant fails to demonstrate the 4.65% MBE and 16.03% WBE participation in the professional services contract, the Prime Consultant must submit Form EEO-DEP-490E ("Request for Waiver"), together with the supporting documentation identified therein, to Mass DEP.
3. The Bureau's project approval certificate shall contain a condition requiring the LGU's Prime Consultant to submit all executed consultant contracts, including contracts with M/WBE subcontractor(s) if in excess of \$25,000, to the Mass DEP within sixty (60) days from the date of the award of financial assistance to the LGU by the Water Pollution Abatement Trust (the "Trust"). Such contracts must be included as an attachment to Form EEO-DEP-290E ("Certificate of Work Start-up" by M/WBE) submitted to the Bureau.

4. In order for the Mass DEP to monitor compliance with its above stated M/WBE provisions for professional services contracts, any LGU who does not file monthly or bi-monthly Payment Requisitions on Form BMF-3000 (Consultant Engineer's Request and Certification) to document W/MBE activity, will be required at a minimum to submit Form EEO-DEP-390E ("Quarterly M/WBE Activity Report") on a quarterly basis. Finally, Form EEO-DEP-590E (M/WBE "Contract Completion Verification") must accompany a request by an LGU for final payment from the Bureau.

SCHEDULE OF PARTICIPATION FOR PROFESSIONAL SERVICES

Project Title: _____ **Project Location:** _____

Minority Business Enterprise Participation in the SRF Loan Work

Name & Address of MBE	Nature of Participation	Dollar Value of Participation
1.		
2.		
3.		
Total MBE Commitment:		\$
Percentage MBE Participation = (Total MBE Commitment) / (Total Engineering Cost) =		%

Women Business Enterprise Participation in the SRF Loan Work

Name & Address of WBE	Nature of Participation	Dollar Value of Participation
1.		
2.		
3.		
Total WBE Commitment:		\$
Percentage WBE Participation = (Total WBE Commitment) / (Total Engineering Cost) =		%

The Prime Consultant agrees to furnish implementation reports as required by the Awarding Authority to indicate the M/WBE(s) which it has used or intends to use. Breach of this commitment constitutes a breach of the contract.

Name of Prime Consultant: _____

Date: _____ By: _____
Signature

NOTE: Participation of a Minority-owned or Women-owned enterprise may be counted in only their certified category; the same dollar participation cannot be used in computing the percentage of Minority participation and again of Women participation.

LETTER OF INTENT FOR PROFESSIONAL SERVICES

This form is to be completed by the MBE and WBE and must be submitted by the Prime Consultant as part of the proposal. A separate form must be completed for each MBE and WBE involved in the project.

Project Title: _____ Project Location: _____

TO: _____
(Prime Consultant)

FROM: _____
(Please Indicate Status ☐ MBE or ☐ WBE)

° I/we intend to perform work in connection with the above project as (check one):

- | | |
|---|--|
| <input type="checkbox"/> An individual | <input type="checkbox"/> A partnership |
| <input type="checkbox"/> A corporation | <input type="checkbox"/> A joint venture with: _____ |
| <input type="checkbox"/> Other (explain): _____ | |

° It is understood that if you are awarded the contract, you intend to enter into an agreement to perform the activity described below for the prices indicated.

MBE/WBE PARTICIPATION

Description of Activity	Date of Project Commencement	\$ Commitment	% Total Engineering Cost
		\$	%

° The undersigned certify that they will enter into a formal agreement upon execution of the contract for the above referenced project.

PRIME CONSULTANT		MBE/WBE	
(Authorized Original Signature)	Date	(Authorized Original Signature)	Date
ADDRESS:		ADDRESS:	
TELEPHONE #:		TELEPHONE #:	
FEIN:		FEIN:	

ORIGINALS:

- ° Compliance Mgr. City/Town Project Location
- ° Mass DEP Program Manager for DEP's CRU Director

*** Attach a copy of current (within 2 years) SOMWBA Certification**

If it is determined that one or more of the MBE/WBE subcontractors as submitted by the Prime Consultant on this form is not SOMWBA certified or certified by the Local Government Unit in accordance with the provisions of Executive Order 237, the Prime Consultant shall have an opportunity, following notification, to either find a certified MBE/WBE subcontractor to perform work equal to or greater than that of the uncertified subcontractor or to submit a waiver request.

CERTIFICATE OF WORK START-UP FOR PROFESSIONAL SERVICES

This form is to be submitted by Prime Consultant to the DEP AAO Director via DEP Program Manager within 10 days after commencing work by the MBE or WBE. A separate form must be filed for each MBE/WBE involved in the project. Be sure to indicate whether this form is being filed in accordance with the original or a revised schedule of participation.

Contract #: _____ Date: _____ SRF #: _____

Contract Title: _____ Project Location: _____

Prime Consultant: _____

Subcontractor: _____

(Please indicate ☐ MBE or ☐ WBE)

DESCRIPTION OF MBE/WBE WORK (LETTER OF INTENT)

Description of Activity and Total Participation*

MBE/WBE Work to Commence on: _____ MBE/WBE Amount: \$ _____

☐ ORIGINAL Schedule OR ☐ REVISED Schedule, DATED: _____

If the work start up date or description of activity are different from that listed on the Letter of Intent or Contract, please explain: (if more space is needed continue on back of sheet)

I hereby certify that all work listed in the Contract/Letter of Intent (or approved changes thereto as explained above) will/have commence(d) on _____ And that the above amount of these services is the true amount.

PRIME CONSULTANT	SUBCONTRACTOR
(Authorized Original Signature) _____ Date _____	(Authorized Original Signature) _____ Date _____
ADDRESS: _____	ADDRESS: _____
TELEPHONE #: _____	TELEPHONE #: _____
FEIN: _____	FEIN: _____

*** Attach a copy of the Letters of Intent and the Signed Contract.**

REQUEST FOR WAIVER FOR PROFESSIONAL SERVICES

Upon exhausting all known sources and making every possible effort to meet the minimum requirements for MBE/WBE participation, the Prime Consultant seeks relief from these requirements by filing this form. Failure to comply with this process shall be cause to reject the eligibility of engineering costs.

General Information

Project Title: _____ Project Location: _____

Prime Consultant: _____

Mailing Address: _____

Contact Person: _____ Telephone No. () _____ Ext. _____

Minimum Requirements

The Prime Consultant must show that good faith efforts were undertaken to comply with the percentage goals as specified. The firm seeking relief must show that such efforts were taken appropriately in advance of the time set for approval of the application by submitting the following:

- A. A detailed record of the effort made to contact and negotiate with minority and/or woman owned businesses, including:
 - 1. names, addresses, telephone numbers and contact dates of all such companies contacted;
 - 2. copies of dated written notice(s) which were sent to MBE/WBE potential subcontractors prior to application deadlines;
 - 3. copies of dated advertisements as appearing in general publications, trade-oriented publications, and applicable minority/women-focused media detailing the opportunities for participation;
 - 4. a detailed statement as to why each subcontractor contacted (i) was not willing to do the job or (ii) was not qualified to perform the work as solicited; and
 - 5. in the case(s) where a negotiated price could not be reached the Prime Consultant should detail what efforts were made to reach an agreement on a competitive price.
- B. The Agency may require the Prime Consultant to produce such additional information as it deems appropriate and may obtain whatever other information it deems necessary to reach a conclusion from any source.

C. No later than fifteen (15) days after receipt of all necessary information and documentation, a decision will be made in writing to the Prime Consultant. If the waiver request is denied, the facts upon which a denial is based will be set forth. A Prime Consultant who is dissatisfied with the decision may then appeal that decision to the EOEAA.

Special Note

If it is determined that one or more of the MBE/WBE subcontractors as submitted by the Prime Consultant on form EEO-DEP-190 is not SOMWBA certified or certified by the Local Government Unit in accordance with the provisions of Executive Order 237, the Prime Consultant shall have 10 working days, following notification, to either find a certified MBE/WBE subcontractor to perform work equal to or greater than that of the uncertified or submit a waiver request.

CERTIFICATION

The undersigned herewith certifies that the above information and appropriate attachments are true and accurate to the best of my knowledge and that I have been authorized to act on behalf of the Prime Consultant in this matter.

(authorized original signature)

DATE

MAILING INSTRUCTIONS: (CERTIFIED MAIL)

TO: DEP-DMS PROGRAM MANAGER
ONE WINTER STREET – 5TH FLOOR
BOSTON, MA 02108-3237

CC: DEP - CRU DIRECTOR
ONE WINTER STREET - 4TH FLOOR
BOSTON, MA 02108-3237

MINORITY AND WOMEN BUSINESS ENTERPRISE PARTICIPATION
MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF MUNICIPAL SERVICES

CONTRACT COMPLETION VERIFICATION FOR PROFESSIONAL SERVICES

Within 30 days of submission by the Prime Consultant of the FINAL PAY ESTIMATE, verification of all MBE/WBE participation in the contract must be submitted by the Owner to the Department of Environmental Protection.

This form must be completed (original signatures only) and forwarded to the DEP AAO Director, 4th Floor, One Winter Street, Boston, MA 02108 with one (1) copy to the DEP Program Manager.

OWNER

_____ Name of Owner	_____ Contract Name/Number
_____ Authorized Representative (Type Name & Title)	_____ Authorized Representative (Signature)
	_____ Date

PRIME CONSULTANT

_____ Company Name	_____ FEIN	_____ Telephone No.	_____ Contract Name/Number
_____ Street		_____ / /	_____ Contract Acceptance Date
_____ City/Town	_____ Zip	_____ \$	_____ Contract Amount
_____ (Type Name and Title)		_____ Signature	_____ Date

[MBE] [WBE] SUBCONTRACTOR (Circle One)

_____ Company Name	_____ FEIN	_____ \$ Subcontract Amount	_____ / / 1 st Payment Date
_____ Street		_____ \$ Total Received	_____ / / Last Payment Date
_____ City/Town	_____ Zip	_____ Telephone No.	
_____ (Type Name and Title)		_____ Signature	_____ Date

Commonwealth of Massachusetts
Vendor Information Form – Professional Services

Awarding Authority:			
Contract Name:		Contract Project Number:	
<u>Company Name</u>			
Street Address 1			
Street Address 2			
City:	State:	Zip Code:	
Telephone Number: () -	Fax Number: () -	E-mail Address:	
WWW Address:	Dunn & Brad Street Number:	Federal Employer ID No.	
County:	Contact Person:		
<u>What geographic area does your firm service?</u>			
<input type="checkbox"/> Metropolitan Boston	<input type="checkbox"/> Massachusetts (Entire State)	<input type="checkbox"/> Vermont	
<input type="checkbox"/> Southeastern Mass	<input type="checkbox"/> Rhode Island	<input type="checkbox"/> New Jersey	
<input type="checkbox"/> Western Mass	<input type="checkbox"/> New Hampshire	<input type="checkbox"/> New York	
<input type="checkbox"/> North of Boston	<input type="checkbox"/> Connecticut	<input type="checkbox"/> Connecticut	
Primary SIC Code		Secondary SIC Code	
Date company was founded			
<u>Gross Annual Sales</u>			
<input type="checkbox"/> \$0 - \$49,999	<input type="checkbox"/> \$500,000 - \$999,999	<input type="checkbox"/> \$5,000,000 - \$10,000,000	
<input type="checkbox"/> \$50,000 - \$99,999	<input type="checkbox"/> \$1,000,000 - \$2,499,999	<input type="checkbox"/> Over \$10,000,000	
<input type="checkbox"/> \$100,000 - \$499,999	<input type="checkbox"/> \$2,500,000 - \$4,999,999		
<u>Number of Employees</u>			
<input type="checkbox"/> 1- 10 employees	<input type="checkbox"/> 20 – 30 employees	<input type="checkbox"/> OVER 50 employees	
<input type="checkbox"/> 10 – 20 employees	<input type="checkbox"/> 30 – 50 employees		
<u>Bonding Capacity</u>			
<input type="checkbox"/> \$0 - \$49,999	<input type="checkbox"/> \$500,000 - \$999,999	<input type="checkbox"/> \$5,000,000 - \$10,000,000	
<input type="checkbox"/> \$50,000 - \$99,999	<input type="checkbox"/> \$1,000,000 - \$2,499,999	<input type="checkbox"/> Over \$10,000,000	
<input type="checkbox"/> \$100,000 - \$499,999	<input type="checkbox"/> \$2,500,000 - \$4,999,999		
<u>Business Structure</u>			
<input type="checkbox"/> Profit	<input type="checkbox"/> S Corporation	<input type="checkbox"/> Partnership	
<input type="checkbox"/> Non-Profit	<input type="checkbox"/> C Corporation	<input type="checkbox"/> Joint Ventures	
	<input type="checkbox"/> Sole Proprietor	<input type="checkbox"/> LLC	
Are you a minority-owned firm?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
Are you a women-owned firm?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
Are you certified by the State Office of Minority and Women Business Assistance (SOMWBA)?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
If you are SOMWBA certified are you certified as an? <input type="checkbox"/> MBE		<input type="checkbox"/> WBE	<input type="checkbox"/> DBE
Are you certified by Division of Capital Assets Management and Maintenance formerly know as DCPO?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
Are you pre-qualified with the Massachusetts Highway Department?		<input type="checkbox"/> Yes	<input type="checkbox"/> No

Commonwealth of Massachusetts Vendor Information Form - Professional Services (Page 2)		
Largest State Contract:		
<input type="checkbox"/> \$0 - \$49,999	<input type="checkbox"/> \$500,000 - \$999,999	<input type="checkbox"/> \$5,000,000 - \$10,000,000
<input type="checkbox"/> \$50,000 - \$99,999	<input type="checkbox"/> \$1,000,000 - \$2,499,999	<input type="checkbox"/> Over \$10,000,000
<input type="checkbox"/> \$100,000 - \$ \$499,999	<input type="checkbox"/> \$2,500,000 - \$4,999,999	
Contracting Agency for Largest State Contract:		
Company Comments: (Include a brief description of the goods and/or services your company provides.		
Name of President or CEO		Date:
Telephone Number:		
Name of Individual Completing the Form		Date:
Telephone Number:		

Appendix G

Statement of Tax Compliance

STATEMENT OF TAX COMPLIANCE

I, _____, as _____ of
(Title)

_____, whose principal place of business is located at
(Business)

_____, do hereby certify that the above-named
_____ has complied with all laws of the

Commonwealth of Massachusetts relating to taxes, in accordance with the provisions of
Massachusetts General Laws, Chapter 62C, 49A, as amended.

Signed under the penalties of perjury this _____ day of _____, 20____.

DATED: _____

(Authorized Signature)

Appendix H

Policy on Eligible Project Costs

Policy on Eligible Project Costs

Purpose

This document establishes the Department's guidelines for determining the eligible project costs of water pollution abatement projects financed through the Clean Water State Revolving Fund Program (CWSRF).

Applicability

This guidance is intended for use by Local Governmental Units (LGUs) and their consultants in the preparation of applications for CWSRF funding, and by DEP SRF Program staff in reviewing loan applications.

Users of this guidance are strongly encouraged to review the regulatory provisions which address eligibility of costs (310 CMR 44.07), a copy of which is included as Appendix 2. For information on the types of projects eligible for financing through the CWSRF, refer to 310 CMR 44.04 (Appendix 1).

Applicants should also refer to the relevant Intended Use Plan (IUP) on which their project appears, since the annual IUP may limit which stages of project implementation (i.e., planning, design, or construction) are eligible. For projects on the Calendar 2005 IUP, design stage costs and design projects are not eligible for assistance.

I. Introduction

This policy summarizes how the Department distinguishes *eligible costs* (those necessary for the completion of a water pollution abatement project) from *ineligible costs* (those which are not necessary for the completion of the project.) The guidance is provided primarily in the form of examples and includes separate listings for eligible and ineligible costs. Applicants should contact the Department for further guidance concerning any other categories of costs not clearly appearing on either list. In general, in addition to being **necessary**, eligible costs must be (a) **reasonable**, (b) **allocable** to the project, (c) **not a general expense** of carrying out the overall responsibilities of the LGU, and (d) **not funded** under another state or federal financial assistance program.

The Department determines the eligible costs of each project on a case-by-case basis after reviewing the LGU's loan application. This determination is incorporated within the Project Approval Certificate. Issuance of the Project Approval Certificate is contingent upon an applicant satisfying the criteria and procedures set forth in the CWSRF program regulations, 310 CMR 44.00.

II. Eligible Costs

The eligible costs in this guideline are divided into project phases and categories and include the Planning phase, the Design phase, the Construction phase, a Miscellaneous and Administrative category, and an Allowance category. *[Note: The information on Design phase costs and on Allowances applies only to projects approved from the Calendar Year 1998, or earlier, IUP. Neither design costs nor allowances are eligible costs for projects on the CY 2004 IUP.]*

A. Planning Phase Eligible Costs

The costs of Comprehensive Wastewater Management Planning (CWMP) or preparation of Project Evaluation Reports (PER) directly related to the water pollution abatement project are eligible costs and include but are not limited to:

1. The costs of professional and consulting services including necessary travel to meet project objectives.
2. The costs incurred in complying with the requirements of the National Environmental Policy Act (NEPA) and/or the Massachusetts Environmental Policy Act (MEPA).
3. The costs of infiltration/inflow (I/I) analysis, sewer system evaluation survey (SSES), hydrogeological studies, and activities incidental thereto.
4. Pilot studies.

B. Design Phase Eligible Costs [NOT AVAILABLE FOR CY 2005 IUP PROJECTS]

The costs for preparation of construction drawings, specifications, pre-design reports, estimates, and construction contract documents related to the water pollution abatement project are eligible costs and include but are not limited to:

1. The costs of professional and consulting services including necessary travel to meet project objectives.
2. The costs of survey and borings.

C. Construction Phase Eligible Costs

The costs of construction and related activities necessary to build the water pollution abatement project are eligible costs and include but are not be limited to:

1. The costs of professional and consulting services including necessary travel to meet project objectives.
2. The construction contract including a 5 % construction contingency
3. Costs of start-up services for on-site training of operating personnel in operation and control of specific treatment processes, laboratory procedures, and maintenance and records management.
4. The cost of an O & M manual or revisions to an existing O & M manual for wastewater treatment plants and major pumping stations.
5. The cost for post construction certification.
6. The costs of groundwater monitoring facilities necessary to determine the possibility of groundwater deterioration, depletion or modification resulting from building the project.
7. The cost (including associated legal, administrative and engineering costs) of land that will be an integral part of land application treatment acquired in fee simple or by lease or easement; including:
 - a. Costs of a reasonable amount of land, considering irregularities in application patterns, and the need for buffer areas, berms, and dikes;

- b. Cost of land acquired for a soil absorption system for a group of two or more homes or municipal buildings;
 - c. Cost of land acquired for storage of treated wastewater in land treatment systems before land application. Only the volume necessary for storage that is greater than the volume necessary for treatment is eligible. The eligible cost will be determined by the ratio of the storage volume to the total volume of the pond.
 - d. Cost of land appraisals.
- 8. Relocation costs associated with wastewater treatment plant construction.
- 9. Cost of acquiring all or part of an existing publicly or privately owned wastewater pollution abatement works provided all the following criteria are met:
 - a. The acquisition, in and of itself, considered apart from any upgrade, expansion or rehabilitation, provides new pollution control benefits;
 - b. The acquired pollution abatement works was not built with previous federal or state financial assistance;
 - c. The primary purpose of the acquisition is not the reduction, elimination, or redistribution of public or private debt; and
 - d. The acquisition does not circumvent the requirements of 310 CMR 44.00, or other state or local requirements.
- 10. Cost of a reasonable inventory of laboratory chemicals and supplies necessary to initiate plant operations and laboratory equipment necessary to conduct tests required for plant operation.
- 11. Costs for purchase and/or transportation of biological seeding materials required for expeditiously initiating the treatment process operation.
- 12. Cost of permanently fixed shop equipment (i.e., lathes, drill press other power shop equipment) installed at the pollution abatement works necessary for the operation of the works.
- 13. Costs of necessary safety equipment to be used exclusively at the pollution abatement facility, provided the equipment meets applicable federal, state, local or industry safety requirements.
- 14. Costs of a reasonable inventory of necessary maintenance equipment (such as lawn mowers, snow blowers, and power and shop tools) and customary furniture and office equipment for new treatment works, provided these purchases are to be used exclusively for that treatment facility. These purchases should receive prior Department approval, be appropriate for the facility's size and usage and should be limited in cost.
- 15. Vehicles having as their purpose the transportation of liquid or dewatered wastes from the collector point (including individual or on-site systems) to the treatment facility or disposal site, or other purposes for which the Department agrees is a necessary part of the project.
- 16. Computers and ancillary software necessary for efficient operation of the water pollution abatement facility.
- 17. Costs of royalties for the use of or rights in a patented process or product.
- 18. Costs allocable to the water pollution control purpose of multiple purpose projects.
- 19. Costs necessary to mitigate direct, adverse, physical impacts resulting from building pollution abatement works.
- 20. Change orders and the costs of meritorious contractor claims for increased costs under sub agreements provided the costs are within the scope of the project, not caused by the borrower's mismanagement; and not caused by the borrower's vicarious liability for the improper actions of others. Eligible costs include:
 - a. Building costs resulting from defects in the plans, design drawings and specifications, or other sub agreement documents only to the extent that the costs would have been incurred if the sub agreement documents had been free of defects, and excluding the costs of any rework, delay, acceleration, or disruption caused by such defects.
 - b. Costs of equitable adjustments for differing site conditions.

Settlements, arbitration awards, and court judgments which resolve contractor claims shall be eligible only to the extent that they meet the requirements of 310 CMR 44.00, are reasonable, and do not attempt to pass on to the state the cost of events that were the responsibility of the borrower, the contractor, or others.

21. The costs (including legal, technical, and administrative costs) of assessing the merits of or negotiating the settlement of a claim by or against a borrower under a sub agreement provided the claim arises from work within the scope of the project, a formal amendment to the loan agreement is executed specifically covering the costs before they are incurred, and the costs are not incurred to prepare documentation that should be prepared by the contractor to support a claim against the awardee.

22. The cost associated with the preparation of the pollution abatement works site before, during and, to the extent agreed on in the loan agreement, after building, including the cost of demolition of existing structures on the pollution abatement works site (including rights-of-way) if building cannot be undertaken without such demolition.

23. The cost of removal, relocation or replacement of utilities, if the borrower is legally obligated to pay such costs under state or federal law.

24. The cost of restoring streets and rights-of-way to their original condition. The need for such restoration must result directly from the construction and will generally be limited to those costs of temporary and permanent paving and repaving of sewer trenches and road surfaces.

25. The cost of mobile stand-by generator necessary to supply power for the transmission of wastewater or residuals from small low pressure (STEP or grinder pumps 5 horsepower or under) systems or small pumping stations where permanently installed generators are not feasible, not cost effective, nor have been required by the Department.

26. Purchase and installation of equipment for permanent monitoring of flow in sewer systems.

27. Costs for removing, and assuring elimination of infiltration or inflow that is cost-effective or value-effective to remove and may be for any or all of the following:

- a. Joint testing and sealing;
- b. Manhole sealing;
- c. Manhole cover raising and cover and frame replacement to prevent inflow;
- d. Service lateral repair and replacement in public ways only;
- e. Pipe and manhole replacement and lining;
- f. The costs of services incurred during the rehabilitation to ensure that the work was accomplished in accordance with the design drawings and specifications.
- g. Studies and investigations on private property to determine sources of infiltration and inflow.
- h. Work related to storm drainage systems where it is demonstrated that the work is essential to the permanent removal of inflow.
- i. Development of an I/I manual which shall include, at a minimum, improvements to sewer use ordinances, user charge systems and collection system operation and maintenance programs.
- j. Post rehabilitation certification.
- k. Sewer separation in partially combined systems.

28. Abatement of combined sewer overflows (CSO), including sewer separation, storage, and treatment. The eligibility of replacements with larger pipe sizes and/or additional catch basins may be eligible only with prior consultation with the Department.

29. Purchase and installation of grinder pump systems or septic tank effluent pump (STEP) systems and piping to the sewer main, provided the LGU has obtained an easement (including a blanket easement) and the community is responsible for the maintenance of the grinder or STEP pump

system. In general electrical work and piping from the house to grinder and or STEP pump system is ineligible, however electrical work from the grinder pump to any necessary control/alarm panels is eligible.

D. Miscellaneous and Administrative Eligible Costs

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Other costs necessary to plan or implement a water pollution abatement project include, but are not limited to:

1. The costs of police traffic details during construction.
3. Preliminary and or final Plan of Operation.
4. Costs of force account work provided the borrower demonstrates to the satisfaction of the Department that the work can be accomplished more economically by the use of the force account method, or that emergency circumstances dictate its use, and that it possesses the necessary competence required to accomplish, document, and audit such work.

### III. Ineligible Costs

**Ineligible Project Costs** are those costs the Department determines are the Local Government Unit's (LGU's) responsibility and or are not necessary for the completion of the project. The Department has determined that ineligible costs include, but are not limited to, the following:

1. Costs which are incurred in excess of the approved project costs shall not be eligible for a subsidy under the loan unless the Department has approved the increase through an amendment to the project approval certificate and the loan has been amended to include the increased amount.
2. The operational costs of water pollution abatement projects shall be ineligible for SRF assistance.
3. Costs which are incurred in violation of applicable federal and state statutes, regulations, or requirements;
4. Bonus payments, not legally required, for completion of building before a contractual completion date.
5. Costs of basin or area wide planning which is not directly related to the project.
6. Removal, relocation or replacement of utilities located on land by privilege, such as franchise or privilege of sufferance.
7. The cost of vehicles for the transportation of the borrower's employees.
8. Items of routine "programmed" maintenance such as ordinary piping, air filters, couplings, hose, bolts, to major system components.
9. Ordinary operating expenses of the borrower including salaries and expenses of elected and appointed officials and preparation of routine financial reports and studies.
10. Personal injury compensation, claims related to wrongful deaths, or property damages arising out of the project.
11. Fines and penalties due to violations of, or failure to comply with, federal, state or local laws, regulations or procedures.
12. Costs outside the scope of the approved project as defined by the Project Evaluation Form.
13. Costs for capacity beyond the design life of the project.
14. Costs for which payment has been or will be received from another federal or state agency.
15. The cost of pollution abatement works that would provide capacity for new habitation or other establishments to be located in environmentally sensitive land such as wetland or floodplain.
16. The pro-rata portion of the costs for utilities, which cannot be dedicated for the sole purpose of the water pollution abatement project.
17. The costs of solutions to aesthetic problems, including design details which require expensive building techniques and architectural features and hardware, that are unreasonable or substantially higher in cost than approvable alternatives.
18. Preparation of applications, plans of study, and permits required by federal, state or local regulations or procedures unless previously deemed eligible in writing by the Department.
19. Architectural or engineering services or other services necessary to correct defects in a comprehensive wastewater management plan, design drawings and specifications, or other sub agreement documents *except meritorious contractor claims as allowed in section II, Construction Eligible Cost, #19.*

20. The costs of acquisition (including associated legal, administrative and engineering etc.) of sewer rights-of-way, waste treatment plant sites (including small system sites), sanitary landfill sites.
21. Any amount paid by the borrower for eligible land in excess of just compensation, based on the appraised value, the borrower's record of negotiation or any condemnation proceeding, as determined by the Commissioner.
22. Rehabilitation, enlargement or replacement of an existing pumping station or construction of a new pumping station not associated with or necessary for servicing the collection system to be built as part of the project shall not be an eligible portion of the project.
23. Costs associated with service connections outside the public way or easement; no more than one service connection per occupied lot or more than a Y fitting per vacant buildable lot.
24. Costs of electrical work and piping from the house to the grinder pump or STEP system.
25. Costs of non-technical services (legal or administrative) for development of a municipal pretreatment program, user charge system, sewer use ordinance, or inter-municipal agreement;
26. The cost (including associated legal, administrative and engineering costs) of land acquired in fee simple or by lease or easement
27. Buy-in cost to another community's system.
28. Corrective Action Reports and related corrective action construction for conventional technology.
29. Costs of issuance including administrative, legal and financial costs of the Trust or the local governmental unit associated with the approval, preparation, issuance and use of bonds as required by the Water Pollution Abatement Trust.

## **APPENDICES**

1. 310 CMR 44.04 – Eligible Projects
2. 310 CMR 44.07 – Eligible Project Costs
3. Allowances for Planning and Design

## **Appendix 1**

### **310 CMR 44.04: Eligible Projects**

- (1) Any water pollution abatement project, as defined in 310 CMR 44.03, is eligible to receive financial assistance from the Trust pursuant to the Act and 310 CMR 44.00. More specifically, eligible projects fall into the following categories:
- (a) Wastewater Treatment Projects, as defined in 310 CMR 44.03;
  - (b) Infiltration Inflow (“I/I”) Projects, as defined in 310 CMR 44.03;
  - (c) Collection System Projects, as defined in 310 CMR 44.03, provided, however, that 75% of the expected wastewater flow into the proposed collection system will be for wastewater flows in existence as of July 1, 1995;
  - (d) Nonpoint Source Projects, as defined in 310 CMR 44.03, including but not limited to projects financed under the Community Septic Management Program within the Fund to assist eligible homeowners to upgrade failed septic systems in compliance with 310 CMR 15.000 (Title 5) through underlying betterment agreements between a local governmental unit and such homeowners; and
  - (e) The planning and/or design for any one of the project categories identified in 310 CMR 44.04(1)(a) through (d), including but not limited to comprehensive wastewater management planning under 310 CMR 44.08(2) and (3) and planning projects which implement the Nonpoint Source Management Plan, as developed and updated by the Department pursuant to s.319 of the Clean Water Act, provided that the total funding allocated for planning and/or design projects shall not exceed 10% of the total financial assistance authorized on the calendar year Intended Use Plan Project Listing portion of the priority list. Nonpoint Source planning projects shall not be subject to the above 10% funding allocation, but this exemption shall expire on January 1, 2000, unless extended in writing by the Department. The Department may modify the above allocation of funds consistent with its identification of planning and/or design projects as a funding priority in a particular calendar year pursuant to 310 CMR 44.06(3).
  - (f) Any project in the categories identified in 310 CMR 44.04(1)(a) through (d) which utilizes a single contractor to design, build and/or operate the project facilities, provided the procurement and use of such contractor is authorized by law, the project conforms with the state constitutional requirements governing the use of Commonwealth funds for public purposes, and the project otherwise meets the requirements of 310 CMR 44.00. The operational costs of such projects shall be ineligible for SRF assistance.

## **Appendix 2**

### **310 CMR 44.07: Eligible Project Costs**

- (1) Costs which the Department determines are necessary for the completion of the project are eligible for financing in the loan and to receive a subsidy under the loan.
- (2) Costs which the Department determines are not necessary for completion of the project are ineligible for financing in the loan.
- (3) The Department will base its eligible project cost determinations on its “Policy on Eligible Project Costs”, which identifies the specific types of costs that are within the two categories under 310 CMR 44.07(1) and (2).
- (4) Project costs incurred by an applicant prior to the date of issuance of the Department’s project approval certificate are not eligible for a subsidy under the loan, except as follows:
  - (a) Preliminary engineering, comprehensive wastewater management planning, design or related professional services and construction work, may be approved by the Department prior to the issuance of a project approval certificate as project costs eligible for subsidy if:
    1. the applicant has submitted a written and adequately substantiated request for approval;
    2. written approval by the Department is obtained before initiation of the project and award of any loan for the project; and
    3. the project is included and maintains its status on the current calendar year Intended Use Plan Project Listing.
  - (b) The Department’s prior approval of costs in accordance with 310 CMR 44.07(4)(a) does not constitute a commitment to approve financial assistance for any project. Instead, such costs will be considered eligible project costs only if a loan is made by the Trust for the project. Accordingly, an applicant receiving the Department’s prior approval of costs in accordance with 310 CMR 44.07(4)(a) proceeds at its own risk.
- (5) Costs incurred in excess of the approved project costs are not eligible for financing by the loan unless the project approval certificate and the loan are both amended to include the cost increase.
- (6) A borrower shall exercise its best efforts to accomplish the work program set forth in the loan within the loan amount. Whenever a borrower reasonably believes that its project costs will exceed or be substantially less than the approved loan amount, it must promptly notify the Department in writing. The borrower must submit revised cost estimates for the project to the Department as soon thereafter as practicable. Neither the Department or the Trust is under any obligation to approve costs in excess of the amount previously approved in the project approval certificate and loan.
- (7) The final eligible project costs shall be the eligible costs approved by the Department upon completion of the project, unless audited. If such project costs are audited, the final eligible costs shall be the eligible costs approved by the Department at the completion of the audit.

### **Appendix 3**

## **[NOT AVAILABLE FOR CY 2004 IUP PROJECTS]**

### **Allowances for Planning and Design**

- (1) The department will use the following tables to determine the allowance for Comprehensive Wastewater Management Planning, Project Evaluation Reports, engineering reports and design or design only. The allowance is not intended to reimburse the local government unit for all costs actually incurred for the project evaluation report or the project design. Rather, the allowance is intended to assist in defraying those costs.
- (2) The estimated and final allowance will be determined in accordance with these tables. The table is to be used in the event that the local government unit is not seeking cost reimbursement for an engineering report or project evaluation report. The amount of the allowance is computed by applying the resulting allowance percentage to the initial allowable building cost.
- (3) The initial allowable building cost is the initial allowable cost of constructing a project whether accomplished through subagreements or forced account. Specifically, the initial allowable building cost is the allowable cost of the following:
  - (a) The initial award amount of all prime subagreements for building the project.
  - (b) The initial amounts approved for force account work performed in lieu of awarding a subagreement for building the project.
  - (c) The estimated allowance is to be based on the estimate of the initial allowable building cost.
  - (d) The final allowance will be determined one time only for each project, based on the initial allowable building cost, and will not be adjusted for subsequent cost increases or decreases.
  - (e) Prior to being reimbursed in the amount of the allowance, the local government unit must certify that it has expended at least the amount of the allowance, and certify the amount and percentage of such allowance paid to MBE(s) and WBE(s).
  - (f) If the professional service allowance amount paid to MBE(s) is less than eleven percent (11%) and/or the amount paid to WBE(s) is less than five percent (5%), the applicant shall ensure that the remaining unmet portion of 11% MBE ( dollar amount ) and/or the remaining unmet portion of 5% MBE (dollar amount ) are added to MBE/WBE professional services utilization requirements of the implementation (construction services) phase of the project.

**Appendix 3 (continued)**

**[NOT AVAILABLE FOR CY 2004 IUP PROJECTS]**

**Allowance for Planning and Design**

| <b><u>Building Cost</u></b> | <b><u>Allowance as % of Building Cost</u></b> |
|-----------------------------|-----------------------------------------------|
| \$100,000 OR LESS.....      | 14.4945                                       |
| 120,000.....                | 14.1146                                       |
| 150,000.....                | 13.6631                                       |
| 175,000.....                | 13.3597                                       |
| 200,000.....                | 13.1023                                       |
| 250,000.....                | 12.6832                                       |
| 300,000.....                | 12.3507                                       |
| 350,000.....                | 12.0764                                       |
| 400,000.....                | 11.8438                                       |
| 500,000.....                | 11.4649                                       |
| 600,000.....                | 11.1644                                       |
| 700,000.....                | 10.9165                                       |
| 800,000.....                | 10.7062                                       |
| 900,000.....                | 10.5240                                       |
| 1,000,000.....              | 10.3637                                       |
| 1,200,000.....              | 10.0920                                       |
| 1,500,000.....              | 9.7692                                        |
| 1,750,000.....              | 9.5523                                        |
| 2,000,000.....              | 9.3682                                        |
| 2,500,000.....              | 9.0686                                        |
| 3,000,000.....              | 8.8309                                        |
| 3,500,000.....              | 8.6348                                        |
| 4,000,000.....              | 8.4684                                        |
| 5,000,000.....              | 8.1975                                        |
| 6,000,000.....              | 7.9827                                        |
| 7,000,000.....              | 7.8054                                        |
| 8,000,000.....              | 7.6550                                        |
| 9,000,000.....              | 7.5248                                        |
| 10,000,000.....             | 7.4101                                        |
| 12,000,000.....             | 7.2159                                        |
| 15,000,000.....             | 6.9851                                        |
| 17,500,000.....             | 6.8300                                        |
| 20,000,000.....             | 6.6984                                        |

**Appendix 3 (continued)**

**[NOT AVAILABLE FOR CY 2004 IUP PROJECTS ]**

**Allowance for Design Only**

| <b><u>Building Cost</u></b> | <b><u>Allowance as % of Building Cost</u></b> |
|-----------------------------|-----------------------------------------------|
|-----------------------------|-----------------------------------------------|

|                        |        |
|------------------------|--------|
| \$100,000 or less..... | 8.5683 |
| 120,000.....           | 8.3808 |
| 150,000.....           | 8.1570 |
| 175,000.....           | 8.0059 |
| 200,000.....           | 7.8772 |
| 250,000.....           | 7.6668 |
| 300,000.....           | 7.4991 |
| 350,000.....           | 7.3602 |
| 400,000.....           | 7.2419 |
| 500,000.....           | 7.0485 |
| 600,000.....           | 6.8943 |
| 700,000.....           | 6.7666 |
| 800,000.....           | 6.6578 |
| 900,000.....           | 6.6534 |
| 1,000,000.....         | 6.4300 |
| 1,200,000.....         | 6.3383 |
| 1,500,000.....         | 6.1690 |
| 1,750,000.....         | 6.0547 |
| 2,000,000.....         | 5.9574 |
| 2,500,000.....         | 5.7983 |
| 3,000,000.....         | 5.6714 |
| 3,500,000.....         | 5.5664 |
| 4,000,000.....         | 5.4769 |
| 5,000,000.....         | 5.3306 |
| 6,000,000.....         | 5.2140 |
| 7,000,000.....         | 5.1174 |
| 8,000,000.....         | 5.0352 |
| 9,000,000.....         | 4.9637 |
| 10,000,000.....        | 4.9007 |
| 12,000,000.....        | 4.7935 |
| 15,000,000.....        | 4.6655 |
| 17,500,000.....        | 4.5790 |
| 20,000,000.....        | 4.5054 |



# **Appendix I**

## **Loan Reimbursements**

Once a loan has been made with the Trust the community may begin seeking reimbursement for costs incurred on the project. The consultant engineer for the project will fill out the forms, gather the appropriate backup and submit the forms to DEP. The DEP then forwards a 1000 form to the Trust. The Trust will then wire transfer the funds to the community.

The required forms needed to seek reimbursement are: 1000, 2000 and 3000 forms. The 1000 form states the following: the approved amount of the loan, the previous requests made by the community and the current requested amount. This form must be signed by the Authorized Representative of the community.

The 2000 form is known as the contractor's form. This form shows the approved amount of the contractor's contract and M/WBE information. Similar to the 1000 form, the 2000 form maintains a running balance of the contract. The M/WBE information must be updated with each reimbursement request. The 2000 form requires the signature of the contractor, the consulting engineer and the DEP inspector.

The 3000 form is known as the consultant engineer's form. The 3000 form is exactly like the 2000 form and its requirements. The 3000 form requires the signature of the consulting engineer.

When the community signs a final loan agreement with the Trust either the community or the consulting engineer should contact the DEP to receive a copy of these forms. Those projects in the Northeast and Western regions should contact **Robert Bourque at (617) 556-1103**, and for those projects in the Southeast and Central regions contact **Margaret Mansfield at (617) 292-5943**.

Samples of these forms follow this page.

# BUREAU OF RESOURCE PROTECTION

## PAYMENT REQUISITION

| LOAN NO.: _____<br>DMS PROJECT NO.: _____                   |                          | REQUEST NO.: _____ 1 _____                        |                       |
|-------------------------------------------------------------|--------------------------|---------------------------------------------------|-----------------------|
| LEGAL NAME AND ADDRESS OF BORROWER: _____<br>_____<br>_____ |                          | PAYABLE TO: _____<br>_____<br>_____               |                       |
|                                                             |                          | PAYMENT METHOD: WIRE TRANSFER<br>ACCOUNT #: _____ |                       |
| EXPENDITURE TYPE                                            | APPROVED<br>AMOUNT<br>\$ | PREVIOUS<br>REQUESTS<br>\$                        | THIS<br>REQUEST<br>\$ |
| Technical Expense                                           | \$ -                     | \$ -                                              | \$ -                  |
| Construction                                                | \$ -                     | \$ -                                              | \$ -                  |
| Contingency                                                 | \$ -                     |                                                   |                       |
| Administrative (Police)                                     | \$ -                     | \$ -                                              | \$ -                  |
|                                                             |                          |                                                   |                       |
|                                                             |                          |                                                   |                       |
|                                                             |                          |                                                   |                       |
|                                                             |                          |                                                   |                       |
| Totals                                                      | \$ -                     | \$ -                                              | \$ -                  |
|                                                             |                          |                                                   |                       |

# SAMPLE

**CERTIFICATION OF THE BORROWER:**

The Authorized Representative of the Borrower identified below certifies the following:

(i) This payment is for Project Costs and the obligations specified herein have not been the basis for a prior requisition that has been paid;

(ii) there has been no Default, as defined in the Regulatory Agreement hereunder or no Event of Default as defined in the Loan Agreement, and no event or condition exists which after notice or lapse of time or both, would become a Default under the Regulatory Agreement or an Event of Default under the Loan Agreement exists; and

(iii) the payment requested by this requisition is due for work actually performed or materials or property actually supplied prior to the date of of this requisition less retainage.

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

(To be completed by the DEP Division of Municipal Services)

Amount Requested: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: Steven J. McCurdy

Title: Director

Amount Approved: \_\_\_\_\_

Date: \_\_\_\_\_

# BUREAU OF RESOURCE PROTECTION

## PERIODIC PAYMENT FORM

(Contractor's Request)

|                                                                |  |  |  |                                                                                                                                                                                                           |  |  |  |
|----------------------------------------------------------------|--|--|--|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|--|
| LOAN NO. :<br>DMS PROJECT NO.:<br>CONTRACT NO.:                |  |  |  | DESCRIPTION OF CONTRACT / TASK:<br><br><br>REQUEST NO.: <u>  1  </u><br><br>PAYMENT PERIOD:                      From                      To<br><br>CONTRACT SERVICE DATES: From                      To |  |  |  |
| CONTRACTOR NAME & ADDRESS:<br>_____<br>_____<br>_____          |  |  |  |                                                                                                                                                                                                           |  |  |  |
| CONSULTANT ENGINEER NAME & ADDRESS:<br>_____<br>_____<br>_____ |  |  |  |                                                                                                                                                                                                           |  |  |  |
| _____<br>_____                                                 |  |  |  |                                                                                                                                                                                                           |  |  |  |

| EXPENDITURE TYPE              | APPROVED COST<br>\$ | PREVIOUS REQUESTS |      | THIS REQUEST<br>\$ | CUMMULATIVE REQUESTS |      | REMAINING BALANCE<br>\$ |
|-------------------------------|---------------------|-------------------|------|--------------------|----------------------|------|-------------------------|
|                               |                     | %                 | \$   |                    | %                    | \$   |                         |
| Construction                  | \$ -                | #####             | \$ - | \$ -               | ####                 | \$ - | \$ -                    |
|                               |                     |                   |      |                    |                      |      |                         |
|                               |                     |                   |      |                    |                      |      |                         |
|                               |                     |                   |      |                    |                      |      |                         |
| <b>MBE/WBE Subcontractors</b> |                     |                   |      |                    |                      |      |                         |
| Company A                     | \$ -                | #####             | \$ - | \$ -               | ####                 | \$ - | \$ -                    |
| Company B                     | \$ -                | #####             | \$ - | \$ -               | ####                 | \$ - | \$ -                    |
|                               |                     |                   |      |                    |                      |      |                         |
|                               |                     |                   |      |                    |                      |      |                         |
|                               |                     |                   |      |                    |                      |      |                         |
| <i>Total</i>                  | \$ -                | #####             | \$ - | \$0.00             | ####                 | \$ - | \$ -                    |

SAMPLE

|                                                                                                                                                                                                                                                                                                       |                                   |                                                                                                                                                                                                |                                                          |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------|
| <i>I certify that to the best of my belief and knowledge, (i) that the attached invoices are in accordance with the specifications of the approved project plans; and (ii) that all work in place as of this date are in accordance with the terms of the above referenced Construction Contract.</i> | <b>BY THE CONTRACTOR</b>          | <i>Certified by:</i><br>_____<br><i>Type Name and Title:</i><br>_____                                                                                                                          | <i>Date Signed</i><br>_____<br><i>Telephone</i><br>_____ |
|                                                                                                                                                                                                                                                                                                       | <b>BY THE CONSULTING ENGINEER</b> | <i>Recommended by:</i><br>_____<br><i>Type Name and Title:</i><br>_____<br>_____                                                                                                               | <i>Date Signed</i><br>_____<br><i>Telephone</i><br>_____ |
|                                                                                                                                                                                                                                                                                                       | <b>BY THE PROJECT INSPECTOR</b>   | THE WORK AS INVOICED HERE TO DATE APPEARS REASONABLE<br>THE WORK AS INVOICED HERE TO DATE APPEARS REASONABLE<br>_____<br>SIGNATURE<br>_____<br>PRINT NAME<br><b>DEP/ BRP PROJECT INSPECTOR</b> | <i>Date Signed</i><br>_____<br><i>Telephone</i><br>_____ |

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
**BUREAU OF RESOURCE PROTECTION**

**PAYMENT REQUISITION**

(Consultant Engineer's Request and Certification)

|                                                                                         |                                                                                                                               |
|-----------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------|
| LOAN NO. : _____<br>DMS PROJECT NO. : _____<br>CONTRACT No. _____                       | DESCRIPTION OF PROJECT: _____<br><br>REQUEST No. <u>  1  </u>                                                                 |
| LEGAL NAME OF BORROWER: _____<br><br>CONSULTANT NAME & ADDRESS: _____<br>_____<br>_____ | PAYMENT PERIOD:                      From                      To<br><br>CONTRACT SERVICE DATES: From                      To |

| EXPENDITURE TYPE              | APPROVED<br>COST<br>\$ | PREVIOUS<br>REQUESTS |      | THIS<br>REQUEST<br>\$ | CUMULATIVE<br>REQUESTS |      | REMAINING<br>BALANCE<br>\$ |
|-------------------------------|------------------------|----------------------|------|-----------------------|------------------------|------|----------------------------|
|                               |                        | %                    | \$   |                       | %                      | \$   |                            |
| Technical Services            | \$ -                   | #####                | \$ - | \$ -                  | ####                   | \$ - | \$ -                       |
|                               |                        |                      |      |                       |                        |      |                            |
|                               |                        |                      |      |                       |                        |      |                            |
|                               |                        |                      |      |                       |                        |      |                            |
|                               |                        |                      |      |                       |                        |      |                            |
| <b>MBE/WBE Subcontractors</b> |                        |                      |      |                       |                        |      |                            |
| Company A                     | \$ -                   | #####                | \$ - | \$ -                  | ####                   | \$ - | \$ -                       |
| Company B                     | \$ -                   | #####                | \$ - | \$ -                  | ####                   | \$ - | \$ -                       |
| Company C                     | \$ -                   | #####                | \$ - | \$ -                  | ####                   | \$ - | \$ -                       |
|                               |                        |                      |      |                       |                        |      |                            |
|                               |                        |                      |      |                       |                        |      |                            |
|                               |                        |                      |      |                       |                        |      |                            |
| <b>Totals</b>                 | \$ -                   | #####                | \$ - | \$ -                  | ####                   | \$ - | \$ -                       |

*The Borrower's Consultant Engineer identified herein certifies as follows: 1) the attached invoices and supporting documentation are for project costs for work actually performed or material or property actually supplied prior to the date of this requisition in conformity with the plans and specifications approved by the Department, or in the case of substantial deviations from the approved plans and specifications, the attached documentation demonstrates that all such deviations have been authorized and certified to by the Borrower or it's Consultant Engineer in accordance with M.G.L. c. 30, ss.39I and are project costs.*

**BY THE CONSULTING ENGINEER**

Certified by:

Date Signed

Type Name and Title:

Telephone